

Public Document Pack



ASHTON-UNDER-LYNE · AUDENSHAW · DENTON · DROYLSDEN · DUKINFIELD · HYDE · LONGDENDALE · MOSSLEY · STALYBRIDGE

GREATER MANCHESTER PENSION FUND - LOCAL PENSIONS BOARD

Day: Tuesday
Date: 19 January 2016
Time: 2.00 pm
Place: Guardsman Tony Downes House, Manchester Road,
Droylsden, M43 6SF

Item No.	AGENDA	Page No
1.	APOLOGIES FOR ABSENCE	
2.	DECLARATIONS OF INTEREST To receive any declarations of interest from Members of the Panel.	
3.	MINUTES The Minutes of the meeting of the Local Pensions Board held on 6 October 2015 to be approved as a correct record.	1 - 6
4.	UPDATE FROM GMPF MANAGEMENT PANEL Report of the Executive Director of Pensions attached.	7 - 44
5.	RISK MANAGEMENT AND AUDIT SERVICES Report of the Head of Risk Management and Audit Services attached.	45 - 52
6.	VALUATION UPDATE Report of the Executive Director of Pensions attached.	53 - 54
7.	EMPLOYER COVENANT Report of the Executive Director of Pensions attached.	55 - 60
8.	REPORT TO PENSIONS REGULATOR REGARDING MEMBER BENEFIT STATEMENTS Report of the Executive Director of Pensions attached.	61 - 68
9.	POLICY FOR REPORTING BREACHES OF THE LAW TO THE PENSIONS REGULATOR Report of the Executive Director of Pensions attached.	69 - 80
10.	ASSESSMENT OF TRAINING NEEDS Report of the Executive Director of Pensions attached.	81 - 92
11.	CONFLICTS OF INTEREST POLICY Report of the Executive Director of Pensions attached.	93 - 124

From: Democratic Services Unit – any further information may be obtained from the reporting officer or from Carolyn Eaton, Senior Democratic Services Officer on 0161 342 3050, to whom any apologies for absence should be notified.

From: Democratic Services Unit – any further information may be obtained from the reporting officer or from Carolyn Eaton, Senior Democratic Services Officer on 0161 342 3050 , to whom any apologies for absence should be notified.

GREATER MANCHESTER PENSION FUND

LOCAL PENSIONS BOARD

6 October 2015

Commenced: 2.00pm

Terminated: 3.30pm

Present:	Councillor Middleton (Chair)	Employer Representative
	Councillor Cooper	Employer Representative
	Richard Paver	Employer Representative
	Jayne Hammond	Employer Representative
	Catherine Lloyd	Employee Representative
	Mark Rayner	Employee Representative
	Chris Goodwin	Employee Representative

Apologies for absence: **David Schofield – Employee Representative**

8. DECLARATIONS OF INTEREST

There were no declarations of interest.

9. MINUTES

The Minutes of the meeting of the Local Pensions Board held on 16 April 2015 were approved as a correct record.

10. EXPANSION OF GMPF LOCAL BOARD

The Executive Director of Pensions submitted a report informing members that revisions to the GMPF Local Board Terms of Reference had been approved by Full Council of Tameside MBC. The revised Terms of Reference increased the size of the Board to comprise 5 scheme member representatives and 5 employer representatives. A copy of the revised Terms of Reference was appended to the report.

The new Scheme member representatives are:

- Catherine Lloyd (UNISON)
- Chris Goodwin (UNITE)

The new Employer representatives are:

- Councillor Cooper (Tameside MBC)
- Jayne Hammond (Monitoring Officer, Bury Council)

The remaining seats on the Local Board would be filled by a pensioner member of the Fund and a representative of the Fund's non Local Authority employers. A process was underway to seek nominations for these positions, which was expected to be completed later this year.

RESOLVED

That the content of the report be noted.

11. GMPF MANAGEMENT PANEL UPDATE

The Executive Director of Pensions submitted a report providing an update for Board members on some of the key agenda items from the meeting of the GMPF Management Panel on 2 October 2015 as follows:

LAPF Investment Awards

The Fund won two awards at the 2015 LAPF Investments Awards:

- LGPS Fund of the Decade; and
- Infrastructure Project of the Year (with LPFA)

New Offices

The development of the fund's new offices, Guardsman Tony Downes House had been delivered in line with the timetable with staff moving in on 14 September 2015. The offices provided the capacity for future growth in the service. The facilities were designed to support working differently and flexibly as service delivery and service demands changed. Future meetings of Panel, Working Groups and Local Pensions Board would be held at Guardsman Tony Downes House.

Public Sector Cap on Exit Payments

In late July, the Government started a short consultation on a proposal to limit the aggregate exit payments payable by public sector boards in England to £95,000. This included employer 'strain payments' arising from early retirements, redundancy, severance payments and any other payments relating to the employee leaving their employment.

The Fund's response was from an administering authority's perspective and thus it focussed on the practical issues of implementing such a policy.

The Government had considered and responded to the consultation responses. It would be broadly progressing proposals as set out in the original consultation document.

Probation (MoJ) Transfer

Virtually all assets due had been received and nearly all the membership records were on the Fund's administration system.

There were still some exceptional matters outstanding and data cleansing continued to be progressed.

During the week commencing 24 August 2015, there were significant falls in equity markets. After discussions with the Advisors and after consulting the Chair, it was decided to take the opportunity to switch approximately £60m from Cash to UK equity within the MoJ portfolio, at advantageous prices compared to those prevailing during the past 12 months. The MoJ Portfolio was thereby moved closer to the current Main Fund asset allocation, in preparation for the assimilation of MoJ assets into the Main Fund.

LPFA Joint Venture

Since the last Panel meeting the joint transaction team had been busy evaluating deals and at present had three prospective deals, which were in final due diligence. These included a stake in privately owned regulated utility as previously reported to Panel, funding of anaerobic digestion plants and a transport infrastructure investment. The JV was also looking at participation in a club bid for a transportation asset. The team had also been establishing processes and resources for back office functions. This platform had the potential to play a part in the move towards LGPS funds pooling investments.

North West Impact Fund

The team were progressing a number of investments, including renewable energy, lending to SMEs and the supported living sector and completed investments with Enterprise Ventures

(lending to small businesses) and Albion (renewable energy). Efforts to collaborate with other LGPS funds were also progressing.

GMPVF – One St Peter’s Square

Agreements for lease were being progressed with two tenants.

Annual Benefits Statement

LGPS funds have a disclosure requirement to issue Annual Benefit Statements by 31 August. This had been a very challenging timetable for most funds and most had failed to meet this deadline in whole or in part. Under the new rules, this would normally require a letter to be sent to the Pensions Regulator from funds that had failed to comply. However, for this year, the Regulator was aware of the exceptional issues and individual funds had not been required to write to the Regulator.

For GMPF’s members, approximately 70% of employee members received their illustration before the deadline. The main reason was no data and incorrect data from employers. Data was still awaited from a small number of employers.

Guaranteed Minimum Pension

Members were reminded that, as part of the State Pension reforms, contracting-out of the Second State Pension was due to end in 2016. This necessitated a reconciliation between the records of pension funds and HMRC. Sorting out the differences was a major administrative task and substantial progress needed to be made by both funds and HMRC in 2016.

Annual Allowance and Lifetime Allowance

With effect from 6 April 2016, the lifetime allowance would reduce from £1.25m to £1m. For most members the Annual Allowance remained at £40k but for a small number of members a taper limited to pay had been introduced that could result in an Annual Allowance of £10k.

Fossil Fuels

An article was published in the Guardian regarding LGPS exposure to fossil fuels.

It was reported that at the Panel meeting, the Executive Director of Pensions made reference to the complex nature of the issues relating to investing in companies that generated a significant proportion of their sales and profits from fossil fuels. He reiterated the Panel’s responsibilities in safeguarding the pension promise of more than 340,000 members, and the fiduciary duty to look after members’ interests and the assets in the Fund. The Executive Director had further stated that it was critical that all financial risks to the fund were assessed, including those posed by fossil fuels.

The Advisers had also commented on this issue at the Panel meeting and had agreed that current exposure to Fossil Fuels was within the risk framework and that they were content that due process and governance had been followed.

Discussion ensued with regard to investment in and the Fund’s exposure to Fossil Fuels.

RESOLVED

That the content of the report be noted.

12. AUDIT OF 31 MARCH 2015 FINANCIAL STATEMENTS

Consideration was given to a report of the Executive Director of Pensions explaining that the Employer Funding Working Group had given detailed consideration to the accounts at its meeting on 7 August 2015. The Working Group (as required by International Standards on Auditing) reviewed the reasonableness of significant assumptions for estimates to be used in the accounts and approved the bases applied. A copy of the submission was appended to the report.

The Fund's Auditor's Grant Thornton had attended that meeting and provided a revised Audit Plan for consideration. Due to the next scheduled meeting of the GMPF Management Panel not being until 2nd October, the revised plan included the convening of an Urgent Matters Panel meeting to review amongst other matters the Audit Findings report prior to the statutory deadline of 30 September. Mark Heap of Grant Thornton had presented his report to the Panel (a copy of which was appended to the report). The Panel had considered the matters raised in and in particular noted the disclosure changes to the financial statement before approving the Fund's financial statements. The report had also included the management responses.

As part of the Audit process, Grant Thornton write to the Executive Director of Pensions and the chair of the Management panel requesting:

- (i) Detail on the management processes to prevent and detect fraud and to ensure compliance with law and regulation relating to operational issues as well as the financial statements; and
- (ii) Details on how the governing Body, (Pensions Management Panel) maintained oversight of these management processes.

A copy of the Fund's letter of representation, management letter to Grant Thornton and the Chair of the Fund's response to the schedule of questions were attached to the report.

RESOLVED

That the matters raised in the report by the District Auditor, be noted.

13. RISK MANAGEMENT AND AUDIT SERVICES

A report was submitted by the Executive Director of Pensions summarising the work of the internal risk Management and Audit Service for the period April to September 2015.

Details were given of final and draft reports issued during the period April to September 2015.

Information was also given of other work carried out in the period, including:

- Ministry of Justice – "Orphan" liability transfers;
- Updating the Audit Programme for the visits to Contributing Bodies;
- Post Audit Review; and
- Liaison with the National Fraud Initiative

With regard to the National Fraud Initiative, it was reported that this work was now undertaken by the Cabinet Office, every two years. Results received this year were currently being investigated. It was reported that there were five reports for the Pension Fund and the number of matches for each report was detailed.

Work in progress was also detailed as follows:

- Review of Expenditure re: No1 St Peters Square;
- Transfers to Defined Contribution Schemes; and
- Review of Administration Processes.

It was further reported that a detailed review of the internal audit plan was currently underway in conjunction with senior management, to ensure that the plan was still relevant and that audits did not need to be deferred or replaced to take account of actual days spent on audits, revised priorities and reduced resources in Internal; Audit. The consultations being held with management also provided the opportunity to review the work completed to date and ensured that the audit 'universe' was up to date and that any emerging risk or new request for assistance were taken into account. Any significant changes to the plan would be detailed in the next progress report to the Board.

RESOLVED

That the content of the report be noted.

14. MANAGING POTENTIAL CONFLICTS OF INTEREST

The Executive Director of Pensions submitted a report explaining that the LGPS Governance Regulations 2015 required each administering authority to be satisfied that members of their local board did not have a conflict of interest.

A policy for managing potential conflicts of interest on the Board had been drafted and was provided as an appendix to the report for consideration.

The Board agreed that they would like to receive some further training on their requirements regarding managing potential conflicts of interest at the next meeting. The draft conflicts policy would therefore be considered further at the next meeting.

RESOLVED

That the draft policy for managing potential conflicts of interest (as appended to the report) be considered further at the next meeting of the Board.

15. LOCAL BOARD TRAINING

The Assistant Executive Director of Pensions explained that the Pension Regulator's Code of Practice #14 set out the Regulator's expectations with regard to knowledge and understanding requirements and ongoing training for Board Members and further required that a training policy be established and maintained.

He further explained that details of a number of training opportunities were reported to each meeting of the Management/Advisory Panel and added that these opportunities were also open to Board members.

Discussion ensued with regard to the above and the following areas for training were identified:

- Managing conflicts of interest;
- Assessing employer covenant strength; and
- Internal Dispute Resolution Procedure.

The new Board members were asked to complete a self-assessment of their current knowledge and understanding which will be incorporated in the draft training plan for discussion at the next meeting.

This page is intentionally left blank

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

Agenda Item 6


Report To:	GREATER MANCHESTER PENSION FUND LOCAL BOARD
Date:	19 January 2016
Reporting Officer:	Peter Morris, Executive Director of Pensions
Subject:	VALUATION TIMETABLE
Report Summary	The Executive Director of Pensions will deliver a presentation setting out the valuation timetable and the outlook for employer contribution rates arising from the 2016 actuarial valuation. The latest valuation timetable is attached at Appendix 1 .
Recommendations:	To note the presentation and valuation timetable.
Policy Implications:	None.
Financial Implications: (Authorised by the Section 151 Officer)	The 31 March 2016 valuation will determine employer contribution rates for the 3 year period commencing 1 April 2017.
Legal Implications: (Authorised by the Solicitor to the Fund)	<p>The LGPS Regulations require each administering authority in England and Wales to undertake an actuarial valuation as at 31 March 2016 and every third anniversary of that date thereafter. The valuation process must be completed within a year of the effective date of the valuation.</p> <p>In undertaking the valuation the actuary must have regard, in particular, to:</p> <ul style="list-style-type: none">• the Authority's Funding Strategy Statement;• the desirability of maintaining as constant a contribution rate as possible; and <p>the requirement to ensure the solvency of the pension fund and the long-term cost efficiency of the Scheme.</p>
Risk Management:	A key risk when administering the LGPS is that an employer fails whilst its sub fund is in deficit. The valuation adjusts employer contribution rates with the aim of matching asset and employer values in the future, in line with the GMPF's Funding Strategy Statement.
ACCESS TO INFORMATION:	NON-CONFIDENTIAL
	This report does not contain information which warrants its consideration in the absence of the Press or members of the public.
Background Papers:	For further information please contact Peter Morris, Executive Director of Pensions tel 0161 301 7150, email peter.morris@tameside.gov.uk.

APPENDIX 1

DETAILED DRAFT TIMETABLE

	ACTION	PROJECTED DATE
1	Initial meeting regarding employer treatment (officers)	Sep-15
2	Initial meeting with ECT re Data Portal (officers)	Sep-15
3	Initial meeting with Employer Working Group (EWG)	Oct-15
4	Pre-valuation meeting (officers)	Dec-15
5	Universal data extract – testing (ECT)	Jan-16
6	Employer updates re prospective outcome for 2017 and options	Feb-16 & ongoing
7	Reasonability checks for employer asset values	May-16
8	HEAT sign off 2015/16	May-16
9	Employer pools – Review of ongoing suitability	May-16
10	Employer Covenant Reviews	Jun-16
11	Discussion with other funds re prospective outcomes	Jun-16
12	Review of Alternative Security options to help manage deficit recovery	Jun-16
13	Sign-off data	Jul-16
14	ALM and Scenario testing – scoping email	Jul-16
15	Agreement on categorisation criteria	Jul-16
16	Whole fund results	Aug-16
17	Issue SAB results	Sep-16
18	ALM and Scenario testing – results meeting	Sep-16
19	Review of FSS	Sep-16
20	Employer results – draft	Oct-16
21	Employer forum	Oct-16
22	Agreed employer rates	Feb-17
23	Final report	Mar-17

Agenda Item 7

Report To:	GREATER MANCHESTER PENSION FUND LOCAL BOARD
Date:	19 January 2016
Reporting Officer:	Peter Morris – Executive Director of Pensions
Subject :	EMPLOYER COVENANT
Report Summary:	<p>The Fund can generally take a long-term outlook due to the ability of the Fund's participating employers to ultimately make good any deficits that emerge from time to time. This ability is often referred to as the 'employer covenant'.</p> <p>This report provides a high-level analysis of the Fund's employer covenant with the aim of highlighting any weaker sectors and employers where the Fund is potentially exposed to a material employer cessation risk and where further analysis should be undertaken.</p>
Recommendation:	To note the content of the report.
Policy implications:	None.
Financial Implications: (Authorised by the Section 151 Officer)	If an employer fails whilst its sub fund is in deficit then there is the potential for other employers' contribution to increase to meet any shortfall.
Legal Implications: (Authorised by the Solicitor to the Fund)	<p>The Fund can mitigate employer covenant risk by requiring additional security that can take the form of a parent company guarantee, a charge over assets of the company and/or a bond or other guarantee.</p> <p>However, there will always be some covenant risk and this is best managed through the policies adopted in determining admission as an employer.</p>
Risk Management:	A key risk when administering the LGPS is that an employer fails whilst its sub fund is in deficit. As the mix of employers in the Fund becomes increasingly complex it is important to review and strengthen the measures in place to identify any employers with a material risk of failure and consider measures to mitigate the risk to the Fund.
ACCESS TO INFORMATION:	NON-CONFIDENTIAL This report does not contain information which warrants its consideration in the absence of the Press or members of the public.
Background Papers:	For further information please contact Euan Miller, Assistant Executive Director – Funding and Business Development.
	 Telephone: 0161 301 7141
	 e-mail: euan.miller@tameside.gov.uk

1. INTRODUCTION

- 1.1 In order to target long-term affordability, the Fund invests predominantly in 'return-seeking' assets. The market value of these assets will be relatively volatile in the short to medium term, but the Fund can take a long-term outlook due to the ability of the Fund's participating employers to ultimately make good any deficits that emerge from time to time. This ability is often referred to as the 'employer covenant'.
- 1.2 At the whole fund level the covenant is strong due to the participation of the 10 local authorities, the National Probation Service, plus other employers with tax-raising powers. However, there are employers participating in the Fund that are not as financially strong and if any of these employers were to fail whilst their sub-fund was in deficit, this would likely result in additional costs for other employers.
- 1.3 As the mix of employers becomes increasing complex it is becoming more important to analyse covenant at the individual employer level and to take steps in order to minimise the Fund's exposure to the risk of individual employer failure.
- 1.4 This report provides a high-level analysis of the Fund's employer covenant with the aim of highlighting any weaker sectors and employers where the Fund has material exposure.
- 1.5 The analysis in this report is based on the results of the Fund's 2013 actuarial valuation. Detailed consideration of employer covenant will be undertaken as part of the 2016 actuarial valuation process.
- 1.6 The Pensions Regulator's Code of Practice #14 – Governance and Administration of Public Service Pension Schemes, recommends that, where relevant, schemes should put in place systems and processes for making an objective assessment of the strength of an employer's covenant (which should include analysis of their financial position, prospects and ability to pay the necessary employer contributions).

2. GMPF EMPLOYER COVENANT

- 2.1 Chart 1 of **Appendix 1** to this report shows the split of liabilities in the Fund (as at 31 March 2013) between the 10 Greater Manchester local authorities and other employers.
- 2.2 At 31 March 2014, 77% of the Fund's liabilities are in respect of local authority pools. Of the remaining 23%, this is split between other sectors considered lower risk (10%), which include the fire service, Greater Manchester Probation Trust, academy schools and sectors considered higher risk (13%).
- 2.3 Note that these figures are prior to the probation service transfers taking effect. Probation liabilities now make up around 20% of the Fund.
- 2.4 The classification between lower risk and higher risk is largely subjective based on officers' current understanding of the treatment of LGPS liabilities on employer failure; in particular whether any deficit is 'crystallised' or passed directly on to a successor organisation. This understanding will develop over time as experience emerges across the LGPS.
- 2.5 Chart 3 of **Appendix 1** shows a split of liabilities by employer type within what we currently see as the higher-risk sectors.
- 2.6 Within the higher risk sectors, employers do not necessarily pose a potential risk to the Fund and where possible, the Fund has historically taken steps to minimise any risk via obtaining additional security such as a local authority guarantee or a bond covering an individual employers' liabilities. In addition, where there is a perceived material funding

risk, the Fund looks to recover any deficit over a shorter period of time, therefore the liabilities of these employers are often relatively well funded.

2.7 Chart 2 of **Appendix 1** summarises, for the higher risk sectors, the level of security provided in respect of individual employers.

High security – Employers’ who are not pooled with a Local Authority, but where a Local Authority guarantees the employers’ liability to the Fund

Medium security – Employers who satisfy one of the following criteria:

- A bond is in place covering a material proportion of the employers’ cessation deficit
- Part of a pool with at least one other employer with a Local Authority guarantee (although note that this does not necessarily protect against a deficit being crystallised on an employer within the pool failing)
- Parent company guarantee (i.e. guarantee not from a Local Authority)

Low security – Employers which do not meet the criteria for high or medium security

2.8 Chart 4 of **Appendix 1** summarises the split of liabilities, at the whole fund level between those considered to provide high security, medium security and low security. Around 84% of the Fund’s liabilities are considered to be highly secure.

2.9 A significant proportion of the low security liabilities relate to Scheme Employers, where the Administering Authority does not have discretion to refuse or make conditional their employees’ access to the Fund and obtaining security is therefore more difficult. Examples of these employers are Further Education Colleges and certain universities.

2.10 Even if no bond or guarantee is in place, meaning that the employer is classified as low security in the analysis, in an insolvency scenario the Fund, along with other creditors, would generally have a claim on the employers’ remaining business assets and therefore may be able to recover at least part of any unpaid deficit.

2.11 The balance sheets of Fund employers can vary significantly, for some employers, such as housing associations can have substantial fixed assets, where many employers that are primarily service providers often have negligible assets on the balance sheet. Where liabilities are material, an analysis of employers’ balance sheets will be carried out as part of the 2016 valuation process.

3. NEXT STEPS

3.1 Consideration of employer covenant strength will form a key part of the 31 March 2016 actuarial valuation process.

3.2 Specific actions during the valuation process are likely to include:

- Categorisation of employers into different risk categories, following a similar methodology to that used in the analysis for this report. This will include reassessing the risks of different sectors (e.g. stated Government policy and funding).
- For employers deemed to be of higher risk, analysis of employers’ balance sheets to estimate the Fund’s outcome in a hypothetical insolvency scenario.
- Consideration of further steps the Fund could take to reduce exposure, e.g. fund on more prudent assumptions, implementation of bespoke lower-risk investment strategies, seek additional forms of security, such as a charge over assets.

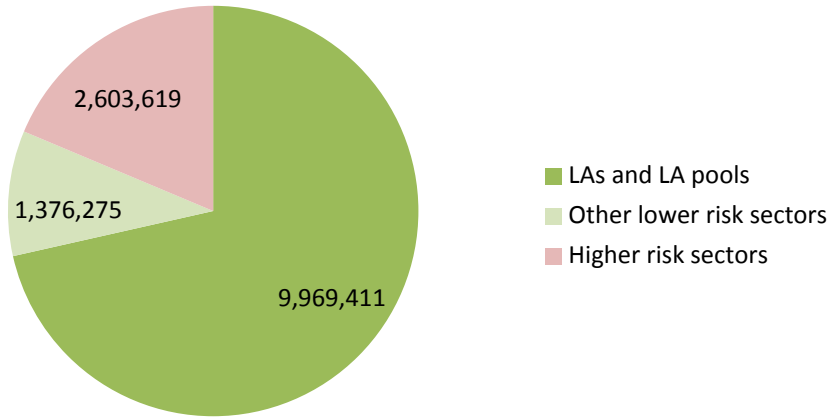
3.3 Going forwards, the Fund will provide Local Authorities on an annual basis with details of the employers for which they act as guarantor.

3.4 The Fund will continue to share knowledge and experience in this area with other funds as appropriate.

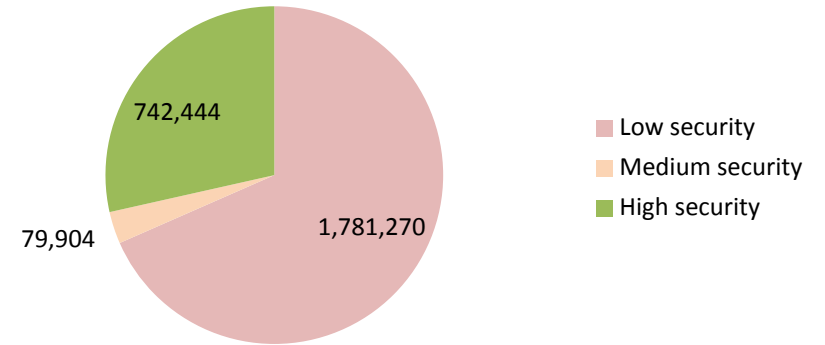
4. RECOMMENDATIONS

4.1 The Board is asked to note the report and provide any advice as appropriate.

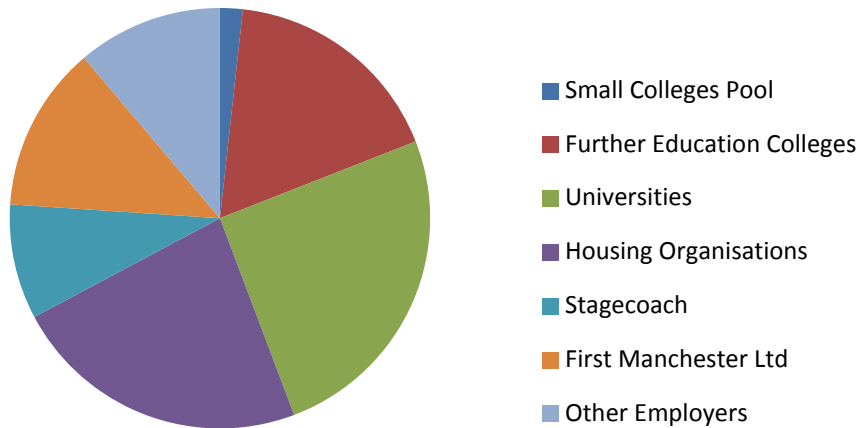
2013 Valuation liabilities (£'000)



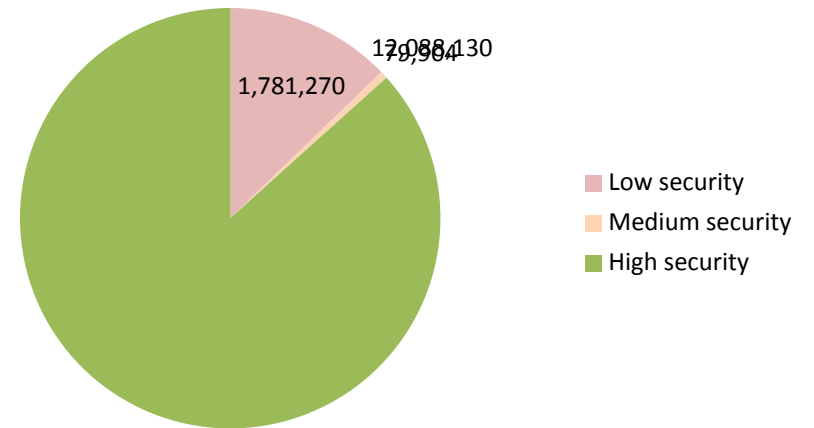
Higher risk sectors - 2013 Valuation liabilities



Higher risk sectors - 2013 Valuation liabilities



Total fund - 2013 Valuation Liabilities



This page is intentionally left blank

Agenda Item 8

Report To:	GREATER MANCHESTER PENSION FUND LOCAL BOARD
Date:	19 January 2016
Reporting Officer:	Peter Morris, Executive Director of Pensions
Subject:	NOTIFICATION TO THE PENSIONS REGULATOR REGARDING LATE DISPATCH OF ANNUAL BENEFIT STATEMENTS (ABSs)
Report Summary:	The report explains why there have been problems this year in providing ABSs and includes a copy of a letter sent to the Pensions Regulator explaining the late despatch of ABSs to a minority albeit substantial number of the Fund's members.
Recommendations:	The Local Pension Board is asked to note the content of the report and the plans to improve performance next year.
Policy Implications:	None.
Financial Implications: (Authorised by the Borough Treasurer)	Penalties can be applied of up to £5,000 in the case of an individual, and £50,000 in the case of an organisation, if relevant legislation is breached.
Legal Implications: (Authorised by the Solicitor to the Fund)	This is a very difficult time for many employers participating in the Fund because of budget constraints leading to service reductions in many areas. However there are statutory requirements that both employers and the administering authority must comply with. Material failure to deliver in line with the law can lead to a poor service being delivered to Fund members, financial penalties, Regulator intervention and significant reputational damage.
Risk Management:	The Fund has in place internal control procedures that aim to minimise the number of breaches, albeit these are often dependent on the prompt receipt of timely and accurate data from employers. These procedures are subject to periodic review. All procedures may be subject to internal and external audit.
ACCESS TO INFORMATION:	NON-CONFIDENTIAL This report does not contain information which warrants its consideration in the absence of the Press or members of the public.
Background Papers:	The Pension Regulator's Code of Practice No 14, which may be found here: http://www.thepensionsregulator.gov.uk/codes/code-governance-administration-public-service-pension-schemes.aspx Further information can be obtained by contacting Ged Dale, Assistant Executive Director – Pensions Administration, on 0161 301 7227 or via email at ged.dale@gmpf.org.uk

1 INTRODUCTION AND BACKGROUND

- 1.1. At its meeting on 11 December 2015 the Pension Fund Management Panel received a report about the production of ABSs for active members and deferred members. In summary this advised that:
- (a) the LGPS Regulations 2013 require that ABSs be sent to active members and deferred members on 31 March, by 31 August;
 - (b) 89,976 ABSs for deferred members were sent in May;
 - (c) 4,395 ABSs for active members were sent in July (being a pilot run), followed by 69,277 in August. The statutory deadline for ABSs was met when complete, accurate and timely year-end returns (which contain the pay data required to calculate ABSs) were received from employers. Many were received late, leading to a further 29,870 ABSs being sent in November;
 - (d) many employers had difficulties in providing complete, accurate and timely year-end information for active members. This is because 2014/15 was the first year when both final salary and career average information was required. These difficulties applied nationally, with the Local Government Association (the LGA) writing to the Pensions Regulator (the Regulator) explaining the position, and the effect this was having on the production of ABSs, on behalf of all English and Welsh LGPS funds. The Regulator's response is attached as **Appendix 1**;
 - (e) where an ABS can reasonably be produced, it has been produced. There remain however several thousand cases where:
 - pay and contributions have been provided, but not the starting details of when new members joined the Fund;
 - members have changed employer during the year, with pay and contributions in respect of only one employer being received;
 - the year-end return provides leaving dates, but no other information has been received, not least the final pays that would allow deferred benefits to be calculated.
 - (f) all the missing data is being sought from employers, for the benefit of members, to prevent year-end problems repeating this year and to have complete and accurate information present for this year's actuarial valuation of the Fund. However, and as stated in the Regulator's letter, it remained to be considered whether the failures to provide all ABSs by 31 August were such that they should be reported to the Regulator. This consideration was to be made in conjunction with the Borough Solicitor / Solicitor to the Fund.
 - (g) regarding the 2015/16 year-end returns, a questionnaire has been sent to all employers to gauge what will help improve matters, such as more training and changes to the year-end specification. Where employers have had particular problems, or have many queries outstanding, direct contact has been / will be made.
- 1.2. The consideration described in paragraph (f) above recently concluded with an outcome of a letter being sent to the Regulator to report that that not all the ABSs that were required had yet been produced and setting out the mitigating circumstances and proposed actions to reduce the problem for next year. A copy of this letter is provided as **Appendix 2**. At the time of writing a reply has not yet been received.

2. COMMENT

- 2.1 The inability to produce all the ABSs that were required is a breach of the law and results in disappointing service to members. Whilst disappointing and embarrassing, it was a national LGPS problem.
- 2.2 A great deal of work is taking place to try and ensure that for the 2015/16 year-end far more data is received from employers that is accurate, timely and complete. As well as enabling the production of ABSs by 31 August 2016, receiving accurate, timely and complete information from employers will be far more efficient and effective for both employers and the administering authority by reducing the amount of laborious manual intervention and re-work. It will also facilitate the timely and accurate completion of the 2016 actuarial valuation that determines employer contribution rates with effect from 1 April 2017.

3. RECOMMENDATION

- 3.1 The Local Pension Board is asked to note the content of the report and provide any advice as appropriate.

This page is intentionally left blank

The Pensions Regulator

9 October 2015

Dear Jeff,

Thank you for outlining the issues faced by Local Government Pension Scheme (LGPS) funds for England and Wales in meeting the legislative deadline for providing annual benefit information statements to members.

The Pensions Regulator recognises the significance of the public service pension reforms, including the requirement to redesign benefits and new requirements about governance and administration.

We are aware that LGPS Funds, like all public service schemes, face a significant task in implementing the major reform of their benefit design, establishing new governance arrangements and putting in place systems to deal with the administration of the new and transitional arrangements while maintaining and integrating their legacy systems.

However, as you are aware, all public service schemes must be governed and administered in accordance with the requirements of the law. We therefore expect those involved in the governance and administration of public service schemes to comply with the law and strive to deliver good outcomes for members. It is vital that members are provided with information on their pension benefits so that they have a clear understanding of their financial position and can make informed decisions.

Where a legal duty relevant to the administration of the scheme has not been, or is not being complied with, certain people (including scheme managers, pension board members and those involved with administering the Funds) are under a duty to report breaches of the law to us if they consider that the breach is likely to be of material significance to us.

Some LGPS Funds have already contacted us to report a breach of the requirement to issue benefit information statements in accordance with the deadline stipulated in the Public Service Pensions Act 2013 (31 August 2015). Where the cause of the breach is explained as being due to significant data and IT system issues faced by Funds and Fund employers, we are minded to advise those Funds that we expect them to issue the statements as soon as possible and by the 30 November 2015 at the latest. As a matter of best practice, we also expect LGPS funds to take steps to inform affected members of the delay and when they can expect to receive their benefit statement.

Where these Funds are unable to meet this timeframe, they will need to provide us with further information, including their plan of action for remedying the breach. Plans will be considered on a case by case basis and we will consider what action to take if satisfactory plans are not in place.

Napier House
Trafalgar Place
Brighton
BN1 4DW

Customer support: 0845 600 0707
Email: customersupport@tpr.gov.uk
Website: www.thepensionsregulator.gov.uk

The Pensions Regulator

However, where the breach arises for other reasons, or in conjunction with other issues, we will consider whether a different response is appropriate in accordance with our Compliance and Enforcement Policy.

Where other Funds are in breach of the requirement and have not yet considered whether or not the breach must be reported to us, scheme managers, pension board members and those involved with administering the Funds will need to consider whether they must do so, whether or not they anticipate that benefit information statements will be issued by 30 November 2015.

Our Public Service Code of practice provides guidance on judging whether a breach needs to be reported, and if so, how to report a breach of law, and our compliance and enforcement strategy outlines our approach in response to any breach that is reported to us or of which we otherwise become aware.

If LGPS Funds decide that they need to report to us, they should explain the reasons for the breach occurring and their plan to remedy it, including the timeframe, which we will take into account in determining our response.

We would welcome the opportunity to engage with you further in relation to public service pensions schemes and to better understand how LGPS funds are addressing issues they face in complying with the legal requirements. Please do not hesitate to contact me if you wish to arrange.

Yours Sincerely
Joey

Joey Patel
Policy Lead
Public Service Pensions Regulation Team



Guardsman Tony Downes House
5 Manchester Road, Droylsden
Tameside, M43 6SF

Mr J Patel
Public Service Pensions Regulation Team
The Pensions Regulator
Napier House
Trafalgar Place
Brighton
BN1 4DW

Tel: 0161 301 7227
Fax: 0161 301 7001
Email: ged.dale@gmpf.org.uk

Website: www.gmpf.org.uk

Our ref: P/GD
Date: 21 December 2015

Dear Mr Patel

Local Government Pension Scheme - annual benefit statements (ABSs)

I write to report that we have not been able to produce all the ABSs we should have produced by 31 August or, noting your letter of 9 October 2015 to Jeff Houston at the Local Government Association, by 30 November.

Regarding the ABSs that we did produce, we sent 163,641 by 31 August and, due to the lateness of many year-end returns from employers, a further 29,867 in November, to give a total of 193,508. Unfortunately we had approximately 7,000 that we were not able to produce. In approximately 4,000 instances this was because we believe members have left but we have not received the leaving information, not least the final pay figures, without which we cannot calculate benefits. In approximately 2,000 instances people would appear to have joined the Fund as we are receiving contributions in respect of them, but employers have not notified the details relating to their admission, eg. their dates of entry and addresses. Again without this data we cannot proceed regarding ABSs.

In approximately 1,000 cases we either do not have sufficient information to produce ABSs, eg. someone has multiple jobs but we have not been provided with sufficient information to post the right amounts of pay and contributions to the right pensionable employment, or the information we have would appear to be wrong.

Regarding correcting matters, many queries have been raised with employers, with more to arise as we work our way through the final year-end returns that were received late. As we receive data, or correct data, we are updating our records. Thereafter we will send the deferred member statements, or active member statements, as appropriate.

Regarding a timeframe, the strong desire is to have all missing information received as soon as possible, and certainly by 9 May 2016, which is when we start to process the year-end returns for 2015/16. Consequently if, for example, we haven't received missing starting details by then, then we can't post the pay and contributions for 2015/16, never mind 2014/15. We are however contacting employers that have outstanding queries to highlight that they must supply us with the data we



require. We have also conducted a survey of employers to try and identify what improvements can be made, with the aim of making the processing of the 2015/16 year-end returns, and the ensuing ABSs, far less troublesome.

As part of the preparations for the 2015/16 year-end we are carrying out some preliminary comparisons of data with our largest 20 employers. We will also offer year-end training to all 450+ employers that have active members. I am optimistic that this training, coupled with us working better generally with employers, will contribute to much better compliance with the legislation next year.

I very much regret that we have not been able to produce all our ABSs on time this year, which as you know is our first year as a career averaging scheme. We will do better next year.

If the above prompts any questions, or if you require any further information, please let me know.

Yours sincerely

G Dale
Assistant Executive Director – Pensions Administration

Agenda Item 9

Report To:	GREATER MANCHESTER PENSION FUND LOCAL BOARD
Date:	19 January 2016
Reporting Officer:	Peter Morris, Executive Director of Pensions
Subject:	A PROCEDURE FOR REPORTING BREACHES OF THE LAW TO THE PENSIONS REGULATOR
Report Summary:	The report provides a draft procedure for reporting material breaches of the law to the Pensions Regulator.
Recommendations:	The Local Board's comments are sought on the draft procedure prior to its consideration by the Pension Fund Management/Advisory Panel.
Policy Implications:	None.
Financial Implications: (Authorised by the Section 151 Officer)	Penalties can be applied of up to £5,000 in the case of an individual, and £50,000 in the case of an organisation, if relevant legislation is breached.
Legal Implications: (Authorised by the Solicitor to the Fund)	Breaches of the law, by both employers and the administering authority, must be kept to a minimum. The requirements are also important to facilitate a high standard of service to scheme members and employers. The Council has strong whistleblowing policies and is one of the first 100 signatories to Public Concern at Work Whistleblowing Code of Conduct.
Risk Management:	The Fund has in place internal control procedures that aim to minimise the number of breaches, albeit these are often dependent on the prompt receipt of timely and accurate data from employers. These procedures are subject to periodic review. All procedures may be subject to internal and external audit.
ACCESS TO INFORMATION:	NON-CONFIDENTIAL This report does not contain information which warrants its consideration in the absence of the Press or members of the public.
Background Papers:	The Pension Regulator's Code of Practice No 14, which may be found here: http://www.thepensionsregulator.gov.uk/codes/code-governance-administration-public-service-pension-schemes.aspx Further information can be obtained by contacting Ged Dale, Assistant Executive Director – Pensions Administration, on 0161 301 7227 or via email at ged.dale@gmpf.org.uk

1. REPORT

- 1.1. Since 2005 all private sector occupational pension schemes in the UK have been overseen by the Pensions Regulator (the Regulator), which is a non-departmental public body. The Regulator's statutory objectives are set out in legislation and include:
- improving confidence in occupational pensions by protecting the benefits of scheme members;
 - promoting good administration; and
 - maximising employer compliance with employer duties.
- 1.2 The Regulator also works to ensure that those involved in running pension schemes have the necessary skills and knowledge.
- 1.3 Following the Public Sector Pensions Act 2013, new public service pensions schemes such as the LGPS 2014 fall under the remit of the Regulator, although its role is less wide ranging than in the private sector and focuses predominantly on governance and the administration of benefits.
- 1.4 There is a great deal of pensions legislation, and when some of the requirements are breached, it may be necessary to report such breaches to the Regulator. To assist with identifying and reporting breaches, the Regulator's code of practice *Governance and administration of public service pension schemes* recommends that funds create a procedure for reporting breaches to the Regulator. A procedure has therefore been drafted and is attached as **Appendix 1** for comments.

2. RECOMMENDATION

- 2.1 The Local Board's comments are sought on the draft procedure prior to its consideration by the Pension Fund Management/Advisory Panel.

A Procedure for Reporting Breaches of the Law to the Pensions Regulator

Greater Manchester Pension Fund

DRAFT

1. INTRODUCTION

- 1.1 In April 2015 the Pensions Regulator (the Regulator) published its Code of Practice no 14 (the Code) *Governance and administration of public service pension schemes*. This is not a statement of law of itself, but nonetheless it carries great weight and is made in accordance with Section 91(5) of the Pensions Act 2004: *Procedure for issue and publication of codes of practice*. In some respects it is like the Highway Code, in that some of its contents refer to statutory items, whilst others are advisory. The Courts however may also rely on the latter. In the same way, if determining whether any pensions related legal requirements have been met, a court or tribunal must take into account the Code.
- 1.2 There are many and various laws relating to the Local Government Pension Scheme, with many and various people having a statutory duty to report material breaches of the law to the Regulator. To assist, the Code states that a procedure should be established to ensure that those with a responsibility to make reports are able to meet their legal obligations. This document is that procedure, which relates to all of the Fund's areas of operation.
- 1.3 Much of the text herein is drawn from the Code itself. Where it has, the Regulator's copyright applies.
- 1.4 If you have any questions about this Procedure and:
- you are a member of the Pension Fund Management Panel, Advisory Panel, Local Board or you are an external adviser, please contact the Solicitor to the Fund;
 - you are an actuary, auditor or other external agent, please contact the Assistant Executive Director - Property, Local Investments, Accountancy and Legal;
 - you represent an employer, please contact the Pensions Policy Manager;
 - you are an officer of the Fund, and you work in Administration, please contact Compliance and Training. Otherwise please contact your Service Unit Manager or Assistant Executive Director.

2. IMPORTANT NOTE FOR TAMESIDE MBC COUNCILLORS AND EMPLOYEES

- 2.1 This Procedure complements the Council's Whistleblowing Policy, which has been approved by the Public Concern at Work Organisation and as stated in that, if someone knows about wrongdoing and doesn't report it then the Council loses an opportunity to deal with a potentially damaging situation and gives rise to an even greater risk of financial loss, regulatory breach, higher insurance premiums and damaged reputation. The Council will not tolerate malpractice or wrongdoing and is determined that all instances of malpractice will be fully investigated and the appropriate action taken.
- 2.2 Any disclosures made by employees to the Council which are intended to shed light on fraud, corruption or malpractice are in general protected under the Public Interest Disclosure Act 1998. Any employee raising concerns through this Procedure will be protected from reprisals or victimisation, so long as the employee is not acting maliciously or for personal gain.
- 2.3 Internal systems and procedures must seek to prevent fraud but also protect individual councillors and employees against malicious or unfounded allegations of impropriety. Internal controls are the first line of defence against fraud and malpractice and national experience shows it is often the case that where fraud and malpractice does occur the controls were circumvented or ignored.
- 2.4 For a full copy of the Council's Whistleblowing Policy, please see the Council's intranet.

3. IMPORTANT NOTE FOR NON-TAMESIDE MBC PERSONNEL

- 3.1 Tameside MBC, as a local authority, has a statutory obligation to have a statutory Monitoring Officer pursuant to Local Government and Housing Act 1989, as amended by Schedule 5 paragraph 24 of the Local Government Act 2000. The Monitoring Officer has a duty to write a report if he/she considers any proposal, decision, or omission made by or on behalf of the Council and/or Greater Manchester Pension Fund, is illegal or would be illegal. The duty is a personal duty, The duties of the Monitoring Officer cover all the Council's activities and thus include those of being the administering authority for the Fund. If you believe you have encountered something relating to the Fund, including employer activities, that you believe to be, or is likely to be, illegal, before you report this to the Pensions Regulator you should, in the first instance, raise the matter with the Council's Monitoring Officer. This person is Sandra Stewart, Solicitor to the Fund & Executive Director of Governance and Resources (Borough Solicitor), who may be contacted at Dukinfield Town Hall, King St, Dukinfield, Tameside, SK16 4LA.
- 3.2 The Pension Fund must also have a statutory Responsible Financial Officer - Section 151 of the Local Government Act 1972 requires every authority in England and Wales to "... make arrangements for the proper administration of their financial affairs and shall secure that one of their Officers has responsibility for the administration of those [financial] affairs". Again this is a statutory personal role with personal liability for failure to report any financial irregularities.
- 3.2 Consequently, there are two reasons for reporting potential breaches to the Solicitor. One is that the Regulator oversees only certain aspects of pensions legislation, with the list being provided in paragraph 12. The content of this legislation is complicated and thus the Solicitor will be able to advise on whether or not the matter in question falls within the Regulator's jurisdiction. Secondly, if there has been a breach, there may be important learning points for either the Council, employers or others involved with the administration of the Fund, which the Solicitor can pass on.

4. LEGAL REQUIREMENTS

- 4.1 Certain people are required to report breaches of the law to the Regulator where they have reasonable cause to believe that:
- a legal duty which is relevant to the administration of the scheme has not been, or is not being, complied with;
 - the failure to comply is likely to be of material significance to the Regulator in the exercise of any of its functions. [See paragraphs 20 to 24 for further details.]
- 4.2 The Regulator has wide-ranging powers but not universal jurisdiction. In particular, for it to issue a statutory enforcement notice, the pension legislation that must be in breach, or is likely to be in breach, is defined as:
- "any enactment contained in or made by virtue of:
- (a) the Pension Schemes Act 1993 (c. 48),
 - (b) Part 1 of the Pensions Act 1995 (c. 26), other than sections 62 to 66A of that Act (equal treatment),
 - (c) Part 1 or section 33 of the Welfare Reform and Pensions Act 1999 (c. 30),
 - (d) this Act [being the Pensions Act 2004],
 - (e) Section 5(4) (pension board: conflicts of interest and representation), 6 (pension board: information), 14 (information about benefits) or 16 (records) of the Public Service Pensions Act 2013,
 - (f) paragraph 2 of Schedule 18 to the Pensions Act 2014 (c.19), or
 - (g) the Pension Schemes Act 2015."

- 4.3 The Superannuation Act 1972, under which the LGPS Regulations are made, is not listed. Consequently the Regulator is only interested in a breach of the LGPSR if this leads to a breach of what is defined as pensions legislation. As an example, an employer has a statutory duty to provide a year-end return of pay and contributions in respect of all its active members. If it fails to do so it is in breach of the LGPSR but the Regulator has no jurisdiction. But under the Public Service Pensions Act 2013, which *is* listed, each administering authority must supply to each active and deferred member an annual benefits statement (ABS) by 31 August. Consequently if an employer fails to supply a year-end return that will prevent the administering authority producing ABSs by 31 August, the Regulator can issue what is called a third party notice to the employer, that directs that the employer "... takes such steps as are specified in the notice in order to remedy or prevent a recurrence of his failure".
- 4.4 People who are subject to the reporting requirement ('reporters') for public service pension schemes are:
- scheme managers (meaning, in the case of the GMPF, the Pension Fund Management Panel);
 - members of the pension board (meaning, in the case of the GMPF, the Local Board);
 - any person who is otherwise involved in the administration of the Fund (and thus members of the Advisory Panel and all of the Fund's officers);
 - employers, and any participating employer who becomes aware of a breach should consider their statutory duty to report, regardless of whether the breach relates to, or affects, members who are its employees or those of other employers;
 - professional advisers including auditors, actuaries, legal advisers and fund managers; and
 - any person who is otherwise involved in advising the managers of the scheme in relation to the scheme (and thus the Fund's three external advisers).

5. REASONABLE CAUSE

- 5.1 Having 'reasonable cause' to believe that a breach has occurred means more than merely having a suspicion that cannot be substantiated.
- 5.2 Reporters should ensure that where a breach is suspected, they carry out checks to establish whether or not a breach has in fact occurred. For example, a member of a funded pension scheme may allege that there has been a misappropriation of scheme assets where they have seen in the annual accounts that the scheme's assets have fallen. However, the real reason for the apparent loss in value of scheme assets may be due to the behaviour of the stock market over the period. This would mean that there is not reasonable cause to believe that a breach has occurred.
- 5.3 Where the reporter does not know the facts or events around the suspected breach, it will usually be appropriate to consult the appropriate Assistant Executive Director, or Service Unit Manager, regarding what has happened. It would not be appropriate to check in cases of theft, suspected fraud or other serious offences where discussions might alert those implicated or impede the actions of the police or a regulatory authority. Under these circumstances the reporter should alert the Regulator without delay.
- 5.4 If the reporter is unclear about the relevant legal provision, they should clarify their understanding of the law with the Fund Solicitor to the extent necessary to form a view.
- 5.5 In establishing whether there is reasonable cause to believe that a breach has occurred, it is not necessary for a reporter to gather all the evidence which the Regulator may require before taking legal action. A delay in reporting may exacerbate or increase the risk of the breach.

6. MATERIAL SIGNIFICANCE

- 6.1 In deciding whether a breach is likely to be of material significance to the Regulator, it would be advisable for the reporter to consider the:
- cause of the breach;
 - effect of the breach;
 - reaction to the breach; and
 - the wider implications of the breach.
- 6.2 When deciding whether to report those responsible, they should consider these points together. Reporters should take into account expert or professional advice, where appropriate, when deciding whether the breach is likely to be of material significance to the Regulator.
- 6.3 The breach is likely to be of material significance to the Regulator where it was caused by:
- dishonesty;
 - poor governance or administration;
 - slow or inappropriate decision making practices;
 - incomplete or inaccurate advice; or
 - acting (or failing to act) in deliberate contravention of the law.
- 6.4 When deciding whether a breach is of material significance, those responsible should consider other reported and unreported breaches of which they are aware. However, historical information should be considered with care, particularly if changes have been made to address previously identified problems.
- 6.5 A breach will not normally be materially significant if it has arisen from an isolated incident, for example resulting from teething problems with a new system or procedure, or from an unusual or unpredictable combination of circumstances. But in such a situation, it is also important to consider other aspects of the breach such as the effect it has had and to be aware that persistent isolated breaches could be indicative of wider scheme issues.

7. EFFECT OF THE BREACH

- 7.1 Reporters need to consider the effects of any breach, but with the Regulator's role in relation to public service pension schemes and its statutory objectives in mind, the following matters in particular should be considered likely to be of material significance to the Regulator:
- Local Board members not having the appropriate degree of knowledge and understanding, which may result in the Board not fulfilling its role, the Fund not being properly governed and administered and/or the Pension Fund Management Panel breaching other legal requirements;
 - Local Board members having a conflict of interest, which may result in them being prejudiced in the way that they carry out their role, ineffective governance and administration of the scheme and/or the Pension Fund Management Panel breaching legal requirements;
 - adequate internal controls not being established and operated, which may lead to the Fund not being run in accordance with the Scheme's Regulations and other legal requirements, risks not being properly identified and managed and/or the right money not being paid to or by the Fund at the right time;
 - accurate information about benefits and Scheme administration not being provided to Scheme members and others, which may result in members not being able to effectively plan or make decisions about their retirement;
 - appropriate records not being maintained, which may result in member benefits being calculated incorrectly and/or not being paid to the right person at the right time;

- anyone involved with the administration or management of the Fund misappropriating any of its assets, or being likely to do so, which may result in assets not being safeguarded; and
- any other breach which may result in the Fund being poorly governed, managed or administered.

7.2 Reporters need to take care to consider the effects of the breach, including any other breaches occurring as a result of the initial breach and the effects of those resulting breaches.

8. REACTION TO THE BREACH

8.1 Where prompt and effective action is taken to investigate and correct the breach and its causes and, where appropriate, notify any affected members, the Regulator will not normally consider this to be materially significant.

8.2 A breach is likely to be of concern and material significance to the Regulator where a breach has been identified and those involved:

- do not take prompt and effective action to remedy the breach and identify and tackle its cause in order to minimise risk of recurrence;
- are not pursuing corrective action to a proper conclusion;
- fail to notify affected scheme members where it would have been appropriate to do so.

9. WIDER IMPLICATIONS OF THE BREACH

9.1 Reporters should consider the wider implications of a breach when they assess which breaches are likely to be materially significant to the Regulator. For example, a breach is likely to be of material significance where the fact that the breach has occurred makes it appear more likely that other breaches will emerge in the future. This may be due to the scheme manager or pension board members having a lack of appropriate knowledge and understanding to fulfil their responsibilities or where other pension schemes may be affected. For instance, public service pension schemes administered by the same organisation may be detrimentally affected where a system failure has caused the breach to occur.

10. EXAMPLES OF BREACHES

Example 1

10.1 An employer is late in paying over employee and employer contributions, and so late that it is in breach of the statutory period for making such payments. It is contacted by officers from the administering authority, it immediately pays the moneys that are overdue, and it improves its procedures so that in future contributions are paid over on time. In this instance there has been a breach but members have not been adversely affected and the employer has put its house in order regarding future payments. The breach is therefore not material to the Regulator and need not be reported.

Example 2

10.2 An employer is late in paying over employee and employer contributions, and so late that it is in breach of the statutory period for making such payments. It is also late in paying AVCs to the Prudential. It is contacted by officers from the administering authority, and it eventually pays the moneys that are overdue, including AVCs to the Prudential. This has happened before, with there being no evidence that the employer is putting its house in order. In this instance there has been a breach that *is* relevant to the Regulator, in part

because of the employer's repeated failures, and also because those members paying AVCs will typically be adversely affected by the delay in the investing of their AVCs.

- 10.3 Of note here is that the payment of contributions to the administering authority is covered by the Pensions Act 2004, which is part of the defined pensions legislation in which the Regulator is interested. Consequently not only may the Regulator issue an enforcement notice regarding non-payment, he can also apply Section 10 of the Pensions Act 2005. This enables him to apply a penalty of up to £5,000 upon an individual, and a penalty of up to £50,000 upon an organisation

Example 3

- 10.4 An employer is late in submitting its statutory year-end return of pay and contributions in respect of each of its active members and as such it is in breach. Despite repeated reminders it still does not supply its year-end return. Because the administering authority does not have the year-end data it is unable to supply, by 31 August, annual benefit statements to the employer's members. In this instance there has been a breach which is relevant to the Regulator, in part because of the employer's failures, in part because of the enforced breach by the administering authority, and also because members are being denied their annual benefits statements.

Example 4

- 10.5 A member of the Pension Fund Management Panel, who is also on the Property Working Group, owns a property. A report is made to the Property Working Group about a possible investment by the Fund, in the same area in which the member's property is situated. The member supports the investment but does not declare an interest and is later found to have materially benefitted when the Fund's investment proceeds. In this case a material breach has arisen, not because of the conflict of interest, but rather because the potential conflict was not raised.

Example 5

- 10.6 A pension overpayment is discovered and thus the administering authority has failed to pay the right amounts to the right person at the right time. A breach has therefore occurred. The overpayment is however for a modest amount and the pensioner could not have known that (s)he was being overpaid. The overpayment is therefore waived. Checks are made to see if there any other similar cases. In this case there is no need to report the breach as it is not material.

11. SUBMITTING A REPORT TO THE REGULATOR

- 11.1 Before you submit a report you should obtain clarification of the law around the suspected breach from the Solicitor.
- 11.2 The Fund Solicitor will clarify any facts, if required, and will consider in the round whether the Regulator would regard the breach as being material.
- 11.3 Some matters could be urgent, if for example a fraud is imminent, whilst others will be less so. Non-urgent but material breaches should be reported to the Regulator within 30 working days of them being confirmed, and breaches that are not material should be also be recorded within 30 days (see later).
- 11.4 Some breaches could be so serious that they must always be reported, for example a theft of funds by anyone involved with the administration or management of the Fund. It is difficult to be definitive about what constitutes a breach that must always be reported, but one test is: might it reasonably lead to a criminal prosecution or a serious loss in public confidence?

- 11.5 Any report that is made (which must be in writing and made as soon as reasonable practicable) should be dated and include as a minimum:
- full name of the Fund;
 - description of the breach or breaches;
 - any relevant dates;
 - name of the employer or scheme manager (where known);
 - name, position and contact details of the reporter; and
 - role of the reporter in relation to the Fund.
- 11.6 Additional information that would help the Regulator includes:
- the reason the breach is thought to be of material significance to the Regulator;
 - the address of the Fund;
 - the pension scheme's registry number (if available); and
 - whether the concern has been reported before.
- 11.7 Reporters should mark urgent reports as such and draw attention to matters they consider particularly serious. They can precede a written report with a telephone call, if appropriate.
- 11.8 Reporters should ensure they receive an acknowledgement for any report they send to the Regulator. Only when they receive an acknowledgement can the reporter be confident that the Regulator has received their report.
- 11.9 The Regulator will acknowledge all reports within five working days of receipt, however it will not generally keep a reporter informed of the steps taken in response to a report of a breach as there are restrictions on the information it can disclose.
- 11.10 The reporter should provide further information or reports of further breaches if this may help the Regulator to exercise its functions. The Regulator may make contact to request further information.
- 11.11 Breaches should be reported as soon as reasonably practicable, which will depend on the circumstances. In particular, the time taken should reflect the seriousness of the suspected breach.
- 11.12 In cases of immediate risk to the Fund, for instance, where there is any indication of dishonesty, the Regulator does not expect reporters to seek an explanation or to assess the effectiveness of proposed remedies. They should only make such immediate checks as are necessary. The more serious the potential breach and its consequences, the more urgently reporters should make these necessary checks. In cases of potential dishonesty the reporter should avoid, where possible, checks which might alert those implicated. In serious cases, reporters should use the quickest means possible to alert the Regulator to the breach.

12. RECORDING BREACHES THAT HAVE NOT BEEN REPORTED TO THE REGULATOR


- 12.1 Breaches that are found not to be material to the Regulator must still be recorded. This is because, if similar breaches continue, then they become material. Recording all breaches also highlights where improvements are required, to try and prevent similar breaches.
- 12.2 Breaches that are not being reported should be recorded here: (being a link to an in-house spreadsheet designed to capture all the relevant data).

13. WHISTLEBLOWING PROTECTION AND CONFIDENTIALITY

- 13.1 The Pensions Act 2004 makes clear that the statutory duty to report overrides any other duties a reporter may have such as confidentiality and that any such duty is not breached by making a report. The Regulator understands the potential impact of a report on relationships, for example, between an employee and their employer.
- 13.2 The statutory duty to report does not, however, override 'legal privilege'. This means that oral and written communications between a professional legal adviser and their client, or a person representing that client, while obtaining legal advice, do not have to be disclosed. Where appropriate a legal adviser will be able to provide further information on this.
- 13.3 The Regulator will do its best to protect a reporter's identity (if desired) and will not disclose the information except where lawfully required to do so. It will take all reasonable steps to maintain confidentiality, but it cannot give any categorical assurances as the circumstances may mean that disclosure of the reporter's identity becomes unavoidable in law. This includes circumstances where the Regulator is ordered by a court to disclose it.
- 13.4 The Employment Rights Act 1996 (ERA) provides protection for employees making a whistleblowing disclosure to the regulator. Consequently, where individuals employed by firms or another organisation having a statutory duty to report disagree with a decision not to report to the regulator, they may have protection under the ERA if they make an individual report in good faith. The Regulator expects such individual reports to be rare and confined to the most serious cases.

This page is intentionally left blank

Report To:	GREATER MANCHESTER PENSION FUND LOCAL BOARD
Date:	19 January 2016
Reporting Officer:	Peter Morris, Executive Director of Pensions
Subject:	ASSESSMENT OF LOCAL BOARD TRAINING NEEDS
Report Summary	<p>Board members are required to acquire appropriate “knowledge and understanding” of pension matters, under the Pensions Act 2004. The degree of knowledge and understanding must be “<i>appropriate for the purposes</i> of enabling the individual to properly exercise the functions of a member of a local board”.</p> <p>This report sets out the results of the self-assessment of Board members training needs and recommends the areas on which training should focus during 2016.</p>
Recommendations:	<p>Board members are recommended to:</p> <ul style="list-style-type: none">i) Note the knowledge and understanding requirements of their role as a Board member;ii) Confirm that the items set out in paragraph 3 are an appropriate focus of the training programme for 2016.
Policy implications:	In line with GMPF Policy.
Financial Implications: (Authorised by the Section 151 Officer)	Ant training costs will be met within existing budgets.
Legal Implications: (Authorised by the Solicitor to the Fund)	<p>The responsibilities of local boards in the LGPS are set out in the Local Government Pension Scheme (Amendment) (Governance) Regulations 2015.</p> <p>The 2015 Governance Regulations require employer and member representatives to have the “capacity” to represent employers and members respectively. Board members are also required to acquire appropriate “knowledge and understanding” of pension matters, under the Pensions Act 2004.</p>
Risk Management:	The purpose of the Local Board is to oversee compliance type activities and to support effective and efficient governance of the Fund. Thus its role is likely to focus on mitigating risks.
ACCESS TO INFORMATION:	NON-CONFIDENTIAL
	This report does not contain information which warrants its consideration in the absence of the Press or members of the public.
Background Papers:	For further information please contact Euan Miller, Assistant Executive Director – Funding and Business Development.

 Telephone: 0161 301 7141

 e-mail: ewan.miller@tameside.gov.uk

1. INTRODUCTION

- 1.1 The responsibilities of local boards in the LGPS are set out in the Local Government Pension Scheme (Amendment) (Governance) Regulations 2015, which can be accessed via the link below:

http://www.legislation.gov.uk/ukxi/2015/57/pdfs/ukxi_20150057_en.pdf

- 1.2 In summary the role of the Board is to assist Tameside MBC in its role as a scheme manager of the Scheme: Such assistance is to:
- (a) secure compliance with the Governance Regulations, any other legislation relating to the governance and administration of the Scheme and any requirements imposed by the Pension Regulator in relation to the Scheme and;
 - (b) to ensure the effective and efficient governance and administration of the Scheme.

2 REQUIREMENTS OF BOARD MEMBERS

- 2.1 The 2015 Governance Regulations require employer and member representatives to have the “capacity” to represent employers and members respectively. Board members are also required to acquire appropriate “knowledge and understanding” of pension matters, under the Pensions Act 2004. The degree of knowledge and understanding must be “*appropriate for the purposes* of enabling the individual to properly exercise the functions of a member of a local board”.

- 2.2 In general terms, Board members’ breadth of knowledge and understanding should be sufficient to allow them to understand fully and challenge information or advice they are given. Members should be able to identify and where relevant challenge any failure to comply with regulations, other legislation and the requirements of the Pensions Regulator.

- 2.3 The Pensions Regulator’s Code of Practice on the governance and administration of public service pension schemes came into effect on 1 April 2015. Pages 12 to 17 of this document set out the knowledge and understanding required of Board members. The code of practice can be accessed via the link below:

<http://www.thepensionsregulator.gov.uk/docs/draft-code-14-governance-administration-public-service-pension-schemes.pdf>

- 2.4 As a minimum, Board members must be conversant with:
- a) The rules of the Scheme (which are set out in the LGPS regulations)
 - b) Any document recording policy about the administration of the Scheme.
- 2.5 Being conversant with these documents means having a working knowledge so that they can be used effectively by Board members when carrying out their duties.
- 2.6 As the LGPS is a funded scheme, documents which record policy about the administration of the Scheme will also include those related to funding and investment matters.
- 2.7 **Appendix B** to this report lists the documents with which Board members should be conversant and contains links to the relevant documents.

3 ACQUIRING, REVIEWING AND UPDATING KNOWLEDGE AND UNDERSTANDING

- 3.1 Training is a very important part of the role of Board members and will help to ensure that they have the necessary knowledge and understanding to effectively meet their legal

obligations and add value in their role. Tameside MBC officers will support Board members in acquiring the relevant training and are developing a knowledge and understanding framework to help assess skills and knowledge gaps. This framework will include a training log to help demonstrate the steps Board members have taken to mitigate the risks associated with knowledge gaps.

4 ASSESSMENT OF CURRENT LEVELS OF KNOWLEDGE AND UNDERSTANDING

4.1 At the last meeting, Local Board members were asked to complete an assessment of their current knowledge and understanding, using a template provided. This document was designed to assess where the gaps in the Board's knowledge and understanding may currently lie and where particular focus should be given in the training plan. Board members were asked to score their existing level of knowledge and understanding a mark of between 1 and 5, with a score of 1 being no existing knowledge and a score of 5 being highly-skilled.

4.2 Individual Board members are not expected to be an expert in all areas, however the Board needs to target a training plan towards ensuring there is the necessary knowledge and understanding across the Board as a whole.

4.3 The results of the assessment, aggregated across the Board as a whole are provided in **Appendix A** to this report. The areas in which an average score of less than 3 were recorded were as follows:

Internal controls – including how scheme members' data is kept and how employer and employee contributions are monitored and recorded.

Resolving disputes – How disputes between members, employers and the Fund are raised, documented and resolved.

Funding and investment – including the purpose of the actuarial valuation process and how contribution rates are set, the purpose of the Fund's Statement of Investment Principles and Funding Strategy Statement and the role of the Fund's custodian.

4.4 It is recommended that these 3 areas be a focus of the training programme during 2016 and the timing and format of the training is discussed further at the meeting.

4.5 The management of a LGPS pension fund is becoming increasingly complex because of:

- (i) the changes in demographics (in particular more employers and an increasingly mature liability profile)
- (ii) the ongoing impact of the Government's reduction in public expenditure;
- (iii) the economic environment and the outlook for investment returns; and
- (iv) progressing the "pooling" of assets

An important element of the Local Board's agenda will be keeping up to date with current events and understanding the scale of opportunities, challenges and risks as the arise and change.

5 OTHER TRAINING MATERIALS

5.1 The Pensions Regulator has developed an online learning programme specifically to help meet the needs of pension board members. The programme is broken down into 7 different modules and an individual completion of the individual modules is automatically logged. Members can register for the Pensions Regulator's Toolkit via the following link:

<https://education.thepensionsregulator.gov.uk/login/index.php>

- 5.2 Board members will be invited to the two annual training days provided by the Fund's investment managers. Several of the Board members attended these sessions in 2015.
- 5.3 Board members are encouraged to attend meetings of the Management Panel as observers.
- 5.4 Board members will be notified of other training events which are considered appropriate. Expenses of attending external events will be reimbursed.

6 RECCOMENDATIONS

- 6.1 Board members are recommended to:
 - (i) Note the knowledge and understanding requirements of their role as a Board member;
 - (ii) Confirm that the items set out in paragraph 3 are an appropriate focus of the training programme for 2016.

GMPF Local Board: Training needs analysis - Results

It is important that the Board has the necessary level of knowledge and understanding in order to carry out their role effectively. Individual Board members are not expected to be an expert in all areas, however we need to target a training plan towards ensuring there is the necessary knowledge and understanding across the Board as a whole. This document was designed to assess where the gaps in the Board's knowledge and understanding may currently lie.

Members were asked to mark their current knowledge on a scale of 1 to 5 in each of the areas set out below, with 1 being no knowledge and 5 being highly skilled. The consolidated responses of the Local Board members are set out in the document below.

1 – My role, responsibilities and duties as a pension board member

Do I know...?	1 – no knowledge 5 – highly skilled	Average	Range	Where to find information					
<ul style="list-style-type: none"> What my role, responsibilities and duties are as a Local Board member 	<table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table>	1	2	3	4	5	3.25	3-4	GMPF Local Board Terms of Reference Introduction to public service pension schemes: www.tpr.gov.uk/PS-introduction
1	2	3	4	5					
<ul style="list-style-type: none"> How to record my training 	<table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table>	1	2	3	4	5	3	1-4	Knowledge and understanding duty on pension board members: www.tpr.gov.uk/PS-knowledge
1	2	3	4	5					
<ul style="list-style-type: none"> My requirements to disclose potential or actual conflicts of interest 	<table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table>	1	2	3	4	5	4	3-5	'Conflicts of interest' course in the Public Service toolkit: www.pensionseducationportal.com
1	2	3	4	5					

2 - Internal controls								
Do I have an understanding of...?	Average					Range	Where to find information	
<ul style="list-style-type: none"> The internal controls the Fund operates 	1	2	3	4	5	3	1-4	'Managing risk and internal controls' course in the Public Service toolkit: www.pensionseducationportal.com GMPF's Annual Report and Accounts: http://www.gmpf.org.uk/publications/annualreport.htm
<ul style="list-style-type: none"> How scheme members' data is kept 	1	2	3	4	5	2.5	1-3	'Maintaining accurate member data' course in the Public Service toolkit: www.pensionseducationportal.com
<ul style="list-style-type: none"> How employer and employee contributions are monitored and recorded 	1	2	3	4	5	2.75	1-4	GMPF's Pension Administration Strategy: http://www.gmpf.org.uk/documents/policies/administrationstrategy.pdf 'Maintaining member contributions' course in the Public Service toolkit: www.pensionseducationportal.com
3 – Communication with members								
Do I know...?	Average					Range	Where to find information	
<ul style="list-style-type: none"> What information must be provided to members about the administration of the scheme and their benefits 	1	2	3	4	5	3	2-4	'Providing information to members and others' course in the Public Service toolkit: www.pensionseducationportal.com
<ul style="list-style-type: none"> How information is provided to members 	1	2	3	4	5	3	2-4	GMPF's Communication Policy: http://www.gmpf.org.uk/documents/policies/communications.pdf

4 – Resolving disputes			
Do I know...?	Average	Range	Where to find information
<ul style="list-style-type: none"> How disputes between members, employers and the Fund are raised, documented and resolved 	1 2 3 4 5 2.75	1-5	'Resolving internal disputes' course in the Public Service toolkit: www.pensionseducationportal.com 'How to Complain' section of GMPF Website: http://www.gmpf.org.uk/complaints.htm
5 – Reporting breaches of the law			
Do I know...?	Average	Range	Where to find information
<ul style="list-style-type: none"> How to identify and assess potential breaches of the law 	1 2 3 4 5 3	1-4	'Reporting breaches of the law' course in the Public Service toolkit: www.pensionseducationportal.com
<ul style="list-style-type: none"> How breaches of the law likely to be of material significance to the regulator are reported 	1 2 3 4 5 3	1-4	
<ul style="list-style-type: none"> What my responsibility is to report breaches and who else is under a duty to report breaches 	1 2 3 4 5 3.25	1-5	

6 - Background and Understanding of the Legislative Framework of the LGPS										
Do I have a high level understanding of...?	Average					Range	Where to find information			
<ul style="list-style-type: none"> The main differences between the LGPS, the other public service pension schemes and private sector trust-based schemes 	1	2	3	4	5	3.25	2-5	DCLG Discussion Paper on New Governance Arrangements: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/208064/LGPS_Governance_discussion_paper_15pg.pdf LGPS Advisory Board Website: http://www.lgpsboard.org/index.php/about-the-board Tameside MBC Website: http://www.tameside.gov.uk/democracy?corporategovernance LGPS Regulations Website http://www.lgpsregs.org/		
<ul style="list-style-type: none"> The recommendations of the Hutton Review and the key provisions of the Public Service Pensions Act 2013 	1	2	3	4	5	2.5	1-4			
<ul style="list-style-type: none"> The structure of the LGPS and the main bodies involved including DCLG, administering authorities, the Scheme Advisory Board, local pension boards and LGPS employers 	1	2	3	4	5	3.75	2-5			
<ul style="list-style-type: none"> Local authority law and how administering authorities are constituted and operate 	1	2	3	4	5	3.25	1-5			
<ul style="list-style-type: none"> LGPS Regulations (including Investment Regulations) 	1	2	3	4	5	2.5	1-4			
7 - Role and responsibilities of the administering authority										
Do I have a high level understanding of...?	Average					Range	Where to find information			
<ul style="list-style-type: none"> GMPF's governance structure 	1	2	3	4	5	3.25	2-5	GMPF's Governance Policy Statement:		

APPENDIX A

and how decisions are made													http://www.gmpf.org.uk/documents/policies/governance.pdf
<ul style="list-style-type: none"> The criteria for employers and members to be admitted to the Fund 	1	2	3	4	5	3.5	1-5						GMPF's policy on employer admissions: http://www.gmpf.org.uk/documents/policies/employeradmissions.pdf
<ul style="list-style-type: none"> How benefits are administered and paid 	1	2	3	4	5	3.5	2-5						GMPF's Pension Administration Strategy: http://www.gmpf.org.uk/documents/policies/administrationstrategy.pdf
<ul style="list-style-type: none"> Decisions and discretions relating to member benefits 	1	2	3	4	5	3	1-5						List of administering authority discretions: http://www.gmpf.org.uk/documents/policies/discretions.pdf
8 - Funding and investment													
Do I have a high level understanding of...?						Average	Range	Where to find information					
<ul style="list-style-type: none"> The purpose of the actuarial valuation process and how contribution rates are set 	1	2	3	4	5	2.5	1-5						
<ul style="list-style-type: none"> How the Fund's assets are invested and the range of investment options available 	1	2	3	4	5	3	1-4	GMPF's Funding Strategy Statement: http://www.gmpf.org.uk/documents/policies/fundingstrategy.pdf					
<ul style="list-style-type: none"> The purpose of the Fund's Statement of Investment Principles and Funding Strategy Statement 	1	2	3	4	5	2	1-4	GMPF's Statement Of Investment Principles: http://www.gmpf.org.uk/documents/policies/investmentprinciples.pdf					
<ul style="list-style-type: none"> The Role of the custodian 	1	2	3	4	5	2.5	2-3	GMPF's Annual Report and Accounts: http://www.gmpf.org.uk/publications/annualreport.htm					
9 - Role and responsibilities of Scheme Employers													
Do I have a high level								Where to find information					

APPENDIX A

understanding of...?	1	2	3	4	5	Average	Range	
<ul style="list-style-type: none"> The different types of employers participating in the Fund (designating bodies, admitted bodies etc...) 	1	2	3	4	5	3.25	1-5	GMPF's Guide for Prospective Employers: http://www.gmpf.org.uk/documents/employer/prospective.pdf
<ul style="list-style-type: none"> How contributions are deducted and paid 	1	2	3	4	5	3.75	2-5	GMPF's Pensions Administration Strategy: http://www.gmpf.org.uk/documents/policies/administrationstrategy.pdf
<ul style="list-style-type: none"> The role of the employers in the administration of the Fund 	1	2	3	4	5	3	1-4	Best Value Authorities Staff Transfer (Pensions) Direction 2007 http://webarchive.nationalarchives.gov.uk/20120919132719/www.communities.gov.uk/documents/localgovernment/pdf/pensions-direction-2007.pdf
<ul style="list-style-type: none"> Relevant employment law, (such as TUPE, Fair Deal etc.) and the impact of changes in service delivery on the Fund 	1	2	3	4	5	3.25	2-5	
10 - Key bodies connected to the LGPS								
Do I understand the role of....?	1	2	3	4	5	Average	Range	Where to find information
The Pensions Regulator, The Pensions Ombudsman, The Pensions Advisory Service, The Local Government Association, CIPFA, NAPF	1	2	3	4	5	3.5	2-5	http://www.thepensionsregulator.gov.uk/about-us.aspx https://www.pensions-ombudsman.org.uk/about-us/ http://www.pensionsadvisoryservice.org.uk/about-us http://www.local.gov.uk/ http://www.cipfa.org/services/networks/pensions-network http://www.napf.co.uk/

APPENDIX B

GMPF Local Board – Key documents relating to the administration of Greater Manchester Pension Fund as at January 2016

Local Government Pension Scheme (LGPS) Regulations

The LGPS Regulations 2013

<http://www.legislation.gov.uk/uksi/2013/2356/contents/made>

The LGPS (Administration) Regulations 2008

<http://www.legislation.gov.uk/uksi/2008/239/contents/made>

LGPS Governance Regulations 2015

http://www.legislation.gov.uk/uksi/2015/57/pdfs/uksi_20150057_en.pdf

The LGPS (Offender Management) (Amendment) Regulations 2014

<http://www.legislation.gov.uk/uksi/2014/1146/resources>

Key GMPF Documents

2015 Report and Accounts

<http://www.gmpf.org.uk/documents/annualreport/2015.pdf>

Appendices to the Report and Accounts

Funding Strategy Statement

<http://www.gmpf.org.uk/documents/policies/fundingstrategy.pdf>

Governance Policy Statement & Governance Compliance Statement

<http://www.gmpf.org.uk/documents/policies/governance.pdf>

Core Belief Statement

<http://www.gmpf.org.uk/documents/policies/corebeliefs.pdf>

Statement of Investment Principles

<http://www.gmpf.org.uk/documents/policies/investmentsprinciples.pdf>

Communications Policy

<http://www.gmpf.org.uk/documents/policies/communications.pdf>



Pension Administration Strategy

<http://www.gmpf.org.uk/documents/policies/administrationstrategy.pdf>

2013 Actuarial Valuation Report

<http://www.gmpf.org.uk/documents/policies/actuarialvaluation/2013.pdf>

This page is intentionally left blank

Report To:	GREATER MANCHESTER PENSION FUND LOCAL BOARD
Date:	19 January 2016
Reporting Officer:	Peter Morris, Executive Director of Pensions
Subject:	MANAGING POTENTIAL CONFLICTS OF INTEREST
Report Summary	<p>The LGPS Governance Regulations 2015 require each administering authority to be satisfied that members of their local board do not have a conflict of interest.</p> <p>A policy for managing potential conflicts of interest on the Board has been drafted and is provided as an appendix to this report for consideration by the Board.</p>
Recommendations:	The Board is asked to consider and approve the attached draft policy for managing potential conflicts of interest.
Policy implications:	None
Financial Implications: (Authorised by the Section 151 Officer)	Conflicts of interest can inhibit open discussions and / or result in decisions, actions or inactions which could result in the ineffective governance and administration of the Fund, which may have financial implications.
Legal Implications: (Authorised by the Solicitor to the Fund)	<p>The LGPS Governance Regulations 2015 require each administering authority to be satisfied that members of their local board do not have a conflict of interest. A conflict of interest is defined in Section 5(5) of the Public Service Pensions Act 2013 as: "<i>A financial or other interest which is likely to prejudice the person's exercise of functions as a member of the board (but does not include a financial or other interest arising merely by virtue of membership of the scheme or any connected scheme).</i>"</p> <p>Those who are elected councillors will be bound by statutory regulation on interests attached at Appendix 3 for ease of reference as will officers of councils.</p>
Risk Management:	As part of their risk assessment process, the Board should identify, evaluate and manage dual interests and responsibilities which have the potential to become conflicts of interest and pose a risk to the Fund and possibly members, if they are not mitigated.
ACCESS TO INFORMATION:	<p style="text-align: center;">NON-CONFIDENTIAL</p> <p>This report does not contain information which warrants its consideration in the absence of the Press or members of the public.</p>
Background Papers:	<p>The Pension Regulator's Code of Practice No 14, which may be found here: http://www.thepensionsregulator.gov.uk/codes/code-governance-administration-public-service-pension-schemes.aspx</p> <p>For further information please contact Euan Miller, Assistant Executive Director – Funding and Business Development.</p> <p> Telephone: 0161 301 7141</p> <p> e-mail: euamiller@tameside.gov.uk</p>

1. INTRODUCTION

1.1 The LGPS Governance Regulations 2015 require each administering authority to be satisfied that members of their local board do not have a conflict of interest and local board members must provide the administering authority with such information as is reasonably required to satisfy this requirement.

1.2 A conflict of interest is defined in Section 5(5) of the Public Service Pensions Act 2013 as

"A financial or other interest which is likely to prejudice the person's exercise of functions as a member of the board (but does not include a financial or other interest arising merely by virtue of membership of the scheme or any connected scheme)."

2. MANAGING POTENTIAL CONFLICTS OF INTEREST

2.1 In accordance with paragraph 23 of the Board's Terms of Reference, a policy for managing potential conflicts of interest on the Board has been drafted and is provided as **Appendix 1** to this report for consideration by the Board. This policy has been drafted based on the guidance on conflicts of interest contained in the Pensions Regulator's Code of Practice on Governance and Administration of Public Service Schemes.

2.2 **Appendix 2** to this report is the module from the Pensions Regulator's Public Service Toolkit on conflicts of interest. The key points from this module will be covered in a training item at the meeting.

2.3 If a Board member believes a conflict of interest exists and this conflict may be of material significance it should consider reporting this to the Pensions Regulator. Some examples of potential conflicts of interest are provided on today's agenda in the item titled, "Procedure for Reporting Breaches of the Law to the Pensions Regulator". How to assess whether an issue may be of material significance and the procedure to follow when making a report are also covered in this item.

3 RECCOMENDATIONS

3.1 The Board is asked to consider and approve the attached draft policy for managing potential conflicts of interest.

APPENDIX 1

GREATER MANCHESTER PENSION FUND LOCAL PENSION BOARD

CONFLICT OF INTERESTS POLICY

1. INTRODUCTION

- 1.1 This document outlines the approach for ensuring the Greater Manchester Pension Fund Local Pension Board is fully compliant with legislative requirements for identifying, monitoring and managing potential conflicts of interest so as to ensure that no actual conflicts of interest arise.
- 1.2 This policy applies to members of the Pension Board and to all officers and advisors supporting the operation of the Pension Board. References to Board Members also apply to advisors and, where appropriate, to officers, where an interest is not covered by Tameside MBC's Code of Conduct for Employees.
- 1.3 The policy sets out the procedures to be followed and the checks and measures in operation to ensure the business of the Board and any decisions or actions taken by it are open, transparent and compliant.

2. MANAGING POTENTIAL CONFLICTS OF INTEREST - LEGISLATIVE REQUIREMENTS ON PENSION BOARDS

- 2.1 Under section 5 (para 4) of the Public Service Pension Act 2013 it is a requirement for the regulations governing public sector pension schemes to include provisions ensuring Board Members do not have conflicts of interest. The Local Government Pension Scheme Regulations 2013 fulfil this requirement within Part 3 - Governance as follows:

LGPS Regulations 2013

Regulation 108: Local Pension Boards: Conflicts of Interest

(1) Each administering authority must be satisfied that any person to be appointed as a member of a local pension board does not have a conflict of interest.

(2) An administering authority must be satisfied from time to time that none of the members of a local pension board has a conflict of interest.

(3) A person who is to be appointed as a member of a local pension board by an administering authority must provide that authority with such information as the authority reasonably requires for the purposes of paragraph (1).

(4) A person who is a member of a local pension board must provide the administering authority which made the appointment with such information as that authority reasonably requires for the purposes.

3. PENSION REGULATOR CODE OF PRACTICE ON CONFLICTS OF INTEREST

- 3.1 The Public Service Pensions Act 2013 extended the regulatory oversight of the Pensions Regulator (tPR) to include public sector schemes and added new provisions into the Pensions Act 2004 requiring tPR to issue a code of practice on the governance of public service pension schemes including conflicts of interest for Pension Boards.

- 3.2 Complying with these new requirements (Section 90A to the Pensions Act 2004) tPR issued Code of Practice no.14 (Governance and Administration of Public Service Pension Schemes) in January 2015. This Conflicts of Interest Policy has been developed having regard to the details of the code which interprets legal requirements and offers practical guidance to Administering Authorities on meeting the terms of LGPS Regulation 108 (above).
- 3.3 This Conflicts of Interest Policy for the Pension Board of the Greater Manchester Pension Fund sets out procedures to be followed by individuals in their capacity as Board Members and as officers or advisors supporting the operation of the Board. In addition, individuals must also comply with all requirements placed on them by codes of conduct and other policies connected with their wider roles and responsibilities, whether as elected members, officers or advisors (e.g. by Tameside MBC's Code of Conduct, and its equivalent within other employers).
- 3.4 This policy encourages the consideration of interests in their broadest sense, an approach which reinforces the expectation that Board Members, officers and advisors will maintain the highest standards of conduct in adherence with the seven principles of public life.
- 3.5 These principles are:
- Selflessness
 - Integrity
 - Objectivity
 - Accountability
 - Openness
 - Honesty
 - Leadership

4. CONFLICT OF INTERESTS GENERAL

- 4.1 The prevention of actual conflicts of interest is reliant on the effective management of potential conflicts of interest. This entails Pension Board Members (and the officers and advisors supporting them) having a clear understanding of what a potential conflict of interest is and what they must do to ensure that no actual conflict arises.
- 4.2 The potential for a conflict of interest exists whenever there are underlying personal interests capable of compromising an individual's ability to act with objectivity. An interest is a personal stake or a perceived obligation (to a person, group or organisation) which is likely to prejudice an individual in the course of fulfilling the responsibilities of their role. Interests can be both financial and non-financial. Financial interests include current or prospective assets or investments, plus influences from an employment, trade, profession or contract. Non-financial interests can be many and varied but will include specific memberships or affiliations which compromise the individual's ability to think or act without bias when acting in their official capacity.
- 4.3 It is inevitable that Pension Board Members will have interests. Where these will potentially prejudice the exercise of functions as a member of the Pension Board by directly impacting on Board business (or will have the appearance of doing so) it is essential they are known about and managed effectively in order to protect the impartiality and standing of the Board and ensure the transparency of its operation and outcomes.
- 4.4 A potential conflict of interest will arise when an individual has a responsibility or duty connected to their membership of the Pension Board whilst at the same time having:
- a separate personal interest (financial or otherwise);
 - a responsibility by virtue of another role or position they hold; or

- a close colleague or family member with a specific responsibility or a direct interest in a particular aspect of Pension Board business.

A member of the Board does not have a financial or other interest arising merely by virtue of membership of the Local Government Pension Scheme or any connected scheme, or by membership of another local authority.

5. SENSITIVE INTERESTS

- 5.1 Where you consider that disclosure of the details of an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Tameside MBC Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.
- 5.2 Under this policy, the effective management of all potential conflicts of interest will be achieved through consistent compliance with 6 clear steps:
1. **identifying** interests
 2. **disclosing** interests
 3. **maintaining** an up to date register of interests
 4. **declaring** potential conflicts
 5. **managing** potential conflicts
 6. **recording** and reviewing the management actions taken

6. IDENTIFYING INTERESTS

- 6.1 The existence of any interest fundamentally incompatible with fulfilling the role and statutory responsibilities of a Pension Board Member will be identified as part of the appointment process and will ultimately prevent an individual from being appointed to the Board.
- 6.2 Following their appointment to the Pension Board, all Board Members are required to identify any interests held directly by themselves or by close family or contacts which have the potential to lead to a conflict of interest.
- 6.3 This identification of interests involves detailed reflection on the role and specific responsibilities of the Pension Board and its members which are as set out in the Terms of Reference for the Pension Board.
- 6.4 Examples of the most common interests and the scenarios in which they may cause a conflict to arise are included at Section 12 below.

7. DISCLOSING INTERESTS

- 7.1 Board Members are required to complete and submit a disclosure form when attending their first Pension Board meeting.
- 7.2 Thereafter Board Members will be required to disclose all financial and non-financial interests including the receipt of any gift or hospitality in excess of £25 using the declaration of interests form provided at **Appendix 2**. A definition of financial and non-financial interests is set out at **Appendix 3**.

- 7.3 Where no relevant interests are identified by a Board Member, they must submit a nil return to evidence that they have complied with the requirement to identify and disclose all relevant interests.
- 7.4 It is the responsibility of each Board Member to regularly consider and review their relevant interests and to submit a further disclosure form within 28 days of becoming aware of any changes to an interest previously disclosed or of any new interest not previously disclosed.
- 7.5 All Board Members must review their interests and submit an updated disclosure annually. For Board Members with no relevant interests this will involve the submission of a new nil return. Making an updated return on each anniversary of their appointment to the Board will assist Tameside MBC (as the administering authority) to fulfil the requirement to be satisfied from time to time that none of the members of a local pension board has a conflict of interest.

8. MAINTAINING AN UP TO DATE REGISTER OF INTERESTS

- 8.1 An up to date register of the interests disclosed by Local Pension Board Members, will be maintained by the Support Officer to the Local Pension Board.
- 8.2 The register will be maintained so as to provide an accurate and up to date record of all details disclosed by individual Local Pension Board Members and the date on which their disclosures were made.

9. DECLARING POTENTIAL CONFLICTS

- 9.1 Pension Board Members are personally responsible for identifying potential conflicts of interest. They must routinely review the work plan, agenda and papers of the Board in advance in order to identify any matters in which they have an interest.
- 9.2 Where a Board Member is aware of an interest with the potential (or appearance of having the potential) to cause a conflict they should declare this in advance of the meeting taking place by providing details to the Board Support Officer who will inform the Chair of the Board.
- 9.3 The Local Pension Board must be confident that the advice it receives from officers and advisers is independent and truly in the best interests of the Fund. For this reason officers and advisers giving advice to the Local Pension Board must declare any situation where a potential, perceived or actual conflict exists, in order that it can be appropriately managed. Declarations should be made in advance to the Monitoring Officer of Tameside MBC who will inform the Chair of the Board.
- 9.4 Declaring an interest in advance provides the opportunity for adequate reflection on the most appropriate approach to managing a potential conflict, it also encourages open discussion and ensures a fully transparent approach.
- 9.5 All meetings of the Local Pension Board will commence with a standing agenda item which facilitates the declaration (and where necessary the disclosure and declaration) of all relevant interests.
- 9.6 Where it becomes apparent during the course of a meeting that an undisclosed interest held by a Board Member, officer or advisor is relevant and creates the potential (or appears to create the potential) for a conflict, this interest must be immediately drawn to the attention of the Board Chair who will determine the appropriate course of action to manage this situation.

10. MANAGING POTENTIAL CONFLICTS

- 10.1 Potential conflicts of interest will arise as a result of a variety of interests and scenarios and they fall to be managed on a case by case basis in the manner most suited to ensuring that:
- no actual conflict will arise;
 - where there is the appearance of a potential conflict this is acknowledged and addressed openly;
 - adequate attention is given to recording the basis for judging a declared interest to be immaterial.
- 10.2 The Board must determine the appropriate mechanism for managing each potential conflict. Approaches to managing potential conflicts of interest will include:
- the member for whom the potential conflict exists taking no part in discussions or voting on the matter creating the conflict;
 - the member relinquishing or divesting themselves of a personal interest which is the source of a conflict of interest with their Pension Board responsibilities (where practical);
 - a member considering resignation from their position if the conflict is likely to be so persistent as to limit meaningful participation in the Pension Board;
 - The Scheme Manager (i.e. the Administering Authority) removing the individual from the Pension Board where they consider the potential conflict is impractical to manage.

11. RECORDING THE MANAGEMENT APPROACH

- 11.1 Details of the specific approach taken to manage potential conflicts of interest will be documented and reported upon as part of the minute taking which formally records the conduct and outcomes of Pension Board meetings.
- 11.2 Wherever a relevant interest is declared, the minutes of Board meetings will record this and give details of how the potential conflict of interest was managed to prevent an actual conflict from arising.
- 11.3 Compliance with the approach and procedures set out within this Conflict of Interests Policy is a requirement under the Terms of Reference for the Local Pension Board and the Code of Conduct for Members of the Local Pension Board of the Greater Manchester Pension Fund.

12. EXAMPLES OF INTERESTS CREATING POTENTIAL CONFLICTS

- 12.1 The following examples of potential conflicts of interest are provided for illustrative purposes. References to Board Members also apply to advisors and, where appropriate, to officers, where an interest is not covered by Tameside MBC's Code of Conduct for Employees.

Example 1

- 12.2 A finance officer appointed as a member of a Local Pension Board may, from time to time, be required to review a decision which may be, or appear to be, in opposition to another interest or responsibility. For example, they may be required as a member of the Local Pension Board to review a decision which involves the use of departmental resources to improve scheme administration, whilst at the same time being tasked, by virtue of their employment, with reducing departmental spending.

Any Board Member employed by an employer participating in the Fund would need to declare their interest in order for a potential conflict to be identified and managed so as to prevent any actual conflict of interests from arising.

Example 2

- 12.3 A Scheme Member representative on the Local Board who works in the Administering Authority's internal audit department may be required as part of his work to audit the Fund. For example, the employee may become aware of confidential breaches of law by the Fund which have not yet been brought to the attention of the Local Pension Board.

Example 3

- 12.4 A Local Board Member holds shares in a large company that provides services to the Fund. The Pension Board is reviewing the performance of the provider and the Pension Fund Management Panel's decision to extend the value and term of the contract.

A Board Member may have financial or other interests which give the appearance of a conflict but which, by virtue of their nature or scale, are not ultimately material to the issue under consideration by the Board.

In this case the Board may consider that on grounds of materiality, no conflict of interest exists. The Local Pension Board is not responsible for the decision to award the contract and the impact of the contract extension will have no effect on the company's share price. The Board Member in question should, however, still declare their interest and the minutes of the meeting should record the decision that the Board judged the interest insufficiently material to require the member to be excluded from discussing or voting on the item of business.

Public Service toolkit downloadable

Module: **Conflicts of interest**

To help you work offline, at a time and place convenient to you, we have created this downloadable version of the e-learning module. The module includes:

- Tutorial (technical background to the topic)
- Case study (here you will work through scenarios related to the topic of this module by answering questions and receiving feedback)

Once you have completed the module you may wish to try the assessment. This can only be completed online and is accessed from the **Conflicts of interest** course page.



You can also download other activities from the course page including:

- Exercise (can be completed individually or as a group): 'Managing conflicts of interest'
- Check your scheme worksheet (to help you apply the learning from this module to your own scheme)

Learning objectives

By the end of this module you will better understand:

- the difference between an actual and potential conflict of interest
- the need to immediately report an actual conflict of interest to the scheme manager
- the potential consequences of failing to manage potential conflicts of interest
- the importance of having a conflict of interest policy and documenting conflicts
- the importance of having an equal number of employer and member representatives on the pension board
- the process for identifying, investigating and managing potential conflicts of interest
- the actions that could be taken to manage potential conflicts of interest

Tutorial

Here you will find out what a conflict of interest is, how important it is to be aware of them and the potential impact of having a conflict of interest. You will also find out how to manage conflicts.

What is a conflict of interest?

You are likely to deal with conflicts of interest on a regular basis in both your personal and professional life.

Imagine you are working at an organisation and a trainee job with good prospects is advertised in your department. You are part of the shortlist panel and know the tests the applicants will have to take. You have a responsibility to your employer to help recruit the best applicant.

Your friend's son is looking for his first job and you want to help him succeed. So you wonder if you should tell him about the role and help him to apply by taking him through the tests.

This has the potential to be a conflict of interest. A conflict of interest is a dual interest or responsibility that may prejudice decisions you make or are involved with.

Take a moment to think about any conflicts of interest you might have had in your personal or professional life before continuing with this module.

The importance of managing conflicts of interest

Why are conflicts of interest important?

It is highly likely that pension board members will have dual interests and responsibilities and may face potential conflicts of interest in their role.

Where this happens, a conflict of interest may prejudice how they carry out their role as a pension board member. For example, it may prejudice how they contribute to discussions or vote on decisions that the board has to make.

A conflicted pension board member might not act in a way which is conducive to fulfilling the board's responsibility for assisting the scheme manager. In turn, this could result in the scheme not complying with the law and/or ineffective governance and administration of the scheme.

Even if there is no actual conflict of interest, others may perceive that there is a conflict.

It is vital that potential conflicts are declared straight away so that pension board members do not make decisions or take actions which could result in the ineffective governance and administration of the scheme. Pension board members must disclose any potential conflicts to the scheme manager. It is the scheme manager who has the responsibility to decide if there is a potential conflict, so a pension board member must give the scheme manager enough information to make this decision.

Failure to manage conflicts of interest

Failing to properly manage potential conflicts of interest could have serious consequences.

Members could challenge decisions made by the pension board if the members feel a decision may have been prejudiced. Even if it hasn't, it is important that members perceive that independent judgement has been exercised.

Exercising independent judgement, and the need to be perceived to be doing so, is essential in reassuring scheme members that the correct decisions are being made on their behalf.

Conflicts of interest

Legal requirements

The Public Service Pensions Act 2013 and Public Service Pensions Act (Northern Ireland) 2014 set out the legal requirements for scheme managers and pension boards for conflicts of interest.

Scheme managers must:

- be satisfied that public service pension board members do not have a conflict of interest
- check from time to time that none of the members of the pension board have a conflict of interest as a crucial part of managing potential conflicts

Pension board members must:

- provide the scheme manager with such information as they reasonably require for the purposes of meeting the legal requirements for conflicts of interest

Potential and actual conflicts of interest

A potential conflict of interest is where a person has dual interests and responsibilities which may conflict with their role as a pension board member but either:

- it has yet to materialise into an actual conflict
- the person declares it and it is managed so that it does not materialise into an actual conflict

Only potential conflicts can be managed.

Actual conflicts are interests likely to prejudice a pension board member's exercise of their functions and which actually materialise. Where an actual conflict exists, there is a risk that the board member could be biased in favour of a particular decision which favours their interests, or they could place undue weight on the arguments opposing their interests in an attempt to address the conflict. This bias could be conscious or unconscious.

Actual conflicts of interest are prohibited under the Public Service Pensions Act 2013 and Public Service Pensions Act (Northern Ireland) 2014 and cannot be managed because of the risk of unconscious bias.

How conflicts may arise

A conflict of interest may arise when a person's duties as a pension board member conflict with their other responsibilities or interests.

For example when a pension board member must fulfil their legal duty to assist the scheme manager and at the same time they have either:

- a separate personal interest (financial or otherwise)
- another responsibility in relation to that decision, giving rise to a possible conflict with their first responsibility

Legal duties include securing compliance with:

- scheme regulations
- other legislation relating to governance and administration of the scheme
- requirements of the regulator
- any other matter for which they are responsible



Exercise

Take a moment to think about other situations where conflicts of interest may arise.

Turn to page 10 to see some examples.

Where could a conflict of interest become a problem?

As we have already covered, conflicts of interest may arise for pension board members who have dual interests and responsibilities and this may result in problems occurring. This could become a problem where:

- decisions are being considered that may involve the scheme incurring an administrative cost which is not legally required (eg where the cost of communicating with members could be significant to the employer, either directly or indirectly)
- the scheme is appointing outsourced service providers
- the scheme is appointing advisers
- decisions are being considered that affect one specific group of beneficiaries
- the scheme is appointing investment managers (funded schemes)
- decisions are being considered regarding the investment strategy (funded schemes)

This list is not exhaustive and we understand that the roles and responsibilities of pension board members may vary from scheme to scheme. It is important that all pension board activities are assessed for potential conflicts of interest.

Managing conflicts of interest

Understanding how to identify potential conflicts of interest and how to deal with them is essential and schemes should ensure that there is an agreed and documented conflicts policy and process. The policy should:

- outline the steps to be followed by pension board members and scheme managers to address a situation where board members have a potential or actual conflict of interest
- include a three-stage process to identify, monitor and manage potential conflicts of interest
- be regularly reviewed

Alongside this, clear guidance on the roles, responsibilities and duties of pension boards and their members should be set out in scheme documentation.



Exercise

Take a moment to think about the types of guidance on roles, responsibilities and duties that should be included in the scheme's conflict of interest policy. Which three of the following are important?

- a. Developing or delivering governance and/or administration policies
- b. Taking or scrutinising decisions relating to governance and/or administration
- c. Whether they are allowed to be a member of a board that is not related to the pension scheme
- d. Whether they have responsibility for administering or monitoring the administration of the scheme
- e. Whether they have responsibility to review the scheme's annual report

Turn to page 10 for the answer.

Three-stage process: 1. Identifying conflicts of interest

The policy should include a description of what a conflict is and how it might arise in relation to a pension board member of the scheme. This includes understanding conflicts that:

- exist already
- may arise in the future
- are perceived by others whether or not they are conflicts of interest

For pension board members to demonstrate that they have fulfilled their obligations independently and without prejudice, they must identify and declare all conflicts of interest. Schemes should keep records of conflicts of interest that have been declared and should maintain a register of conflicts of interest.

The three-stage process allows management of potential conflicts. However, if at any stage of the process it becomes likely that a potential conflict has become an actual conflict, it cannot be managed and must be reported to the scheme manager.

Register of conflicts of interest

When managing conflicts of interest, it is essential that all conflicts of interest are recorded and the action taken is documented. The scheme should be able to demonstrate that records of conflicts are kept and that the register is monitored and reviewed regularly.

The register should outline areas where potential conflicts may arise and include details of:

- all obligations owed by pension boards
- all corporate hospitality offered (whether or not it has been accepted)
- personal financial interests (such as significant investments in particular organisations)
- other employment (for example where a pension board works with more than one scheme or where the spouse/family member of a pension board member works for an organisation which is bidding to provide services to the scheme)
- actions or mitigations taken

Three-stage process: 2. Monitoring conflicts of interest

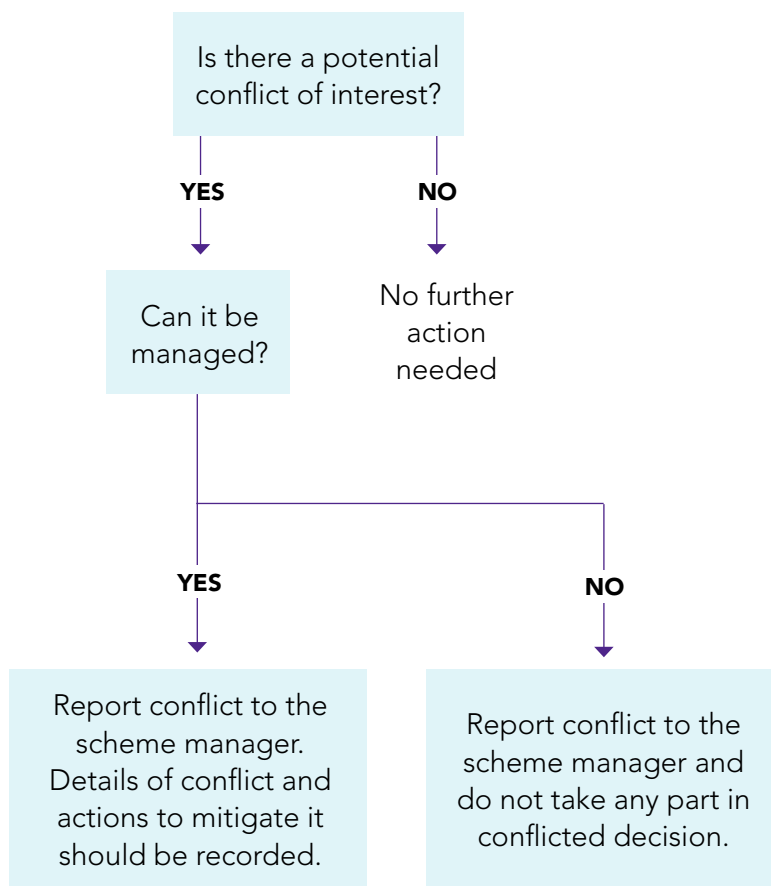
At the start of all pension board meetings it is good practice for pension board members to declare whether they have any new conflicts of interest, either due to a change in circumstances, or because of a particular item that is to be considered at the meeting. If a conflict of interests arises unexpectedly during a meeting it must be declared then. Pension board minutes should record details of any conflicts reported, and actions taken regarding the conflict.

However recording a conflict, although necessary, will not in itself be sufficient to deal with it.

Three stage process: 3. Managing conflicts of interest

To be able to manage a conflict, schemes should evaluate it first.

This decision tree may help schemes evaluate how to manage a particular conflict of interest.



The action taken will depend on the nature and severity of the conflict. Schemes should always bear in mind that whilst it may be possible to manage potential conflicts, any actual conflict cannot be managed and must be reported to the scheme manager.

Possible courses of action could include:

- the conflicted pension board member taking no part in the discussion of the matter giving rise to the conflict
- the conflicted pension board member leaving the meeting for some or part of the time
- the scheme manager seeking independent legal advice as to the way in which to manage the conflict
- the scheme manager seeking independent advice from other professionals, for example an accountant or actuary, on the matter in question

In some cases, it will become apparent that even the potential for a conflict is so significant that a pension board member may be obliged to resign. This may be preferable to having a pension board member who is regularly unable to play a full part in the work of the pension board.

Representation on pension boards

Pension boards must have an equal number of employer and member representatives.

This is to ensure that the boards have a fair and transparent balance of skills, experience and representation (eg of membership categories, participating employers etc).

Having a variety of people and representation on the pension board may help schemes to minimise potential conflicts of interest by ensuring that pension board matters, discussions or votes on decisions are made fairly and all those involved in the scheme are taken into consideration.

It is important for schemes to consider the mix of skills and experience needed on their pension boards so that they:

- operate effectively
- exercise their roles and responsibilities without prejudice and with independent judgement



Answers

Situations where conflicts of interest may arise

We thought of the following, with some examples. This is not exhaustive.

A duty to one of the scheme's employers: An employer representative may oppose a decision to buy a costly system that would improve standards of record-keeping because there is pressure from the employer not spend any money.

Responsibility to particular beneficiaries of the scheme: A pension board member may make, or influence, a decision to increase contribution rates, as they know that it will impact a family member.

Duty of confidentiality: A pension board member has access to information by virtue of their employment, which they could use to influence or inform the decisions or actions of the pension board.

Types of guidance

The correct answers are A, B and D. Clear guidance on the roles, responsibilities and duties of pension boards and the members of those boards should be set out in scheme documentation which records policy and processes about the administration of the scheme. This should cover, for example, whether they have responsibility for administering or monitoring the administration of the scheme; developing or delivering governance and/or administration policies; and taking or scrutinising decisions relating to governance and/or administration.

You have now reached the end of this tutorial.

Case study

Here you will work through a scenario related to the topic of this module by answering questions and receiving feedback. You can use the case study to find out how much you have learnt after completing the tutorial, or test how much you already know before starting the tutorial.

Cecilia is a finance officer for Yellowshire Health Authority, who is trying to reduce expenditure. She is also a member of the pension board for Yellowshire Health Authority Pension Scheme. The scheme conducts a review of their administration processes annually. Whilst carrying out the review, some issues with incorrect and missing member data were identified. The pension board were advised of the issues at their pension board meeting.

To improve this, a pension board member suggested that the scheme's in-house administration team urgently carry out work to review and address gaps and inaccuracies in all member data. This would ensure that all member records were correct, all data was present and that the scheme was meeting record-keeping legal requirements. This work would incur extra costs for the scheme and the employer may have to pay increased employer contributions to fund it. The pension board members were asked to consider whether they should go ahead.



Question

Which course of action should Cecilia take?

- a. Don't tell anyone and vote against the decision as having a high standard of member data is not important and the scheme should spend money elsewhere
- b. Tell her employer and then vote against the suggestion as she must always be working towards reducing her employer's spend
- c. Tell one of her fellow pension board members and vote for the suggestion as she must always prioritise the pension scheme above her other interests
- d. Tell the scheme manager and offer to abstain from voting

Turn to the next page for the answer.



Answer

The correct answer is D.

Pension board members must provide scheme managers with information reasonably required by the scheme manager to enable them to be satisfied that pension board members do not have a conflict of interest. If Cecilia does have a conflict of interest she should not take part in any decision making as her interest could prejudice her vote.

You have now reached the end of this case study.

You have now reached the end of this module.

.....
www.pensionseducationportal.com

© The Pensions Regulator January 2015. You can reproduce the text in this publication as long as you quote The Pensions Regulator's name and title of the publication. Please contact us if you have any questions about this publication. We can produce it in Braille, large print or audio tape. We can also produce it in other languages.



Department for
Communities and
Local Government

Openness and transparency on personal interests

A guide for councillors

© Crown copyright, 2013

Copyright in the typographical arrangement rests with the Crown.

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, www.nationalarchives.gov.uk/doc/open-government-licence/ or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

This document/publication is also available on our website at www.gov.uk/dclg

If you have any enquiries regarding this document/publication, email contactus@communities.gov.uk or write to us at:

Department for Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU
Telephone: 030 3444 0000

For all our latest news and updates follow us on Twitter: <https://twitter.com/CommunitiesUK>

September 2013

ISBN: 978-1-4098--3604-9

The Guide

This guide on personal interests gives basic practical information about how to be open and transparent about your personal interests. It is designed to help councillors, including parish councillors, now that new standards arrangements have been introduced by the Localism Act 2011¹.

Why are there new rules?

Parliament has abolished the Standards Board regime and all the rules under it. It has done this because that centrally-imposed, bureaucratic regime had become a vehicle for petty, malicious and politically-motivated complaints against councillors. Rather than creating a culture of trust and openness between councillors and those they represent, it was damaging, without justification, the public's confidence in local democratic governance.

The new standards arrangements that Parliament has put in place mean that it is largely for councils themselves to decide their own local rules. It is essential that there is confidence that councillors everywhere are putting the public interest first and are not benefiting their own financial affairs from being a councillor. Accordingly, within the new standards arrangements there are national rules about councillors' interests.²

Such rules, in one form or another, have existed for decades. The new rules are similar to the rules that were in place prior to the Standards Board regime. Those rules, originating in the Local Government Act 1972 and the Local Government and Housing Act 1989, involved local authority members registering their pecuniary interests in a publicly available register, and disclosing their interests and withdrawing from meetings in certain circumstances. Failure to comply with those rules was in certain circumstances a criminal offence, as is failure to comply in certain circumstances with the new rules.

Does this affect me?

Yes, if you are an elected, co-opted, or appointed member of:

- a district, unitary, metropolitan, county or London borough council
- a parish or town council
- a fire and rescue authority
- a transport or other joint authority
- a combined authority or an economic prosperity board
- the London Fire and Emergency Planning Authority
- the Broads Authority

¹ The Guide should not be taken as providing any definitive interpretation of the statutory requirements; those wishing to address such issues should seek their own legal advice.

² The national rules are in Chapter 7 of the Localism Act 2011 and in the secondary legislation made under the Act, particularly in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (S.I. 2012/1464).

- a National Park authority
- the Greater London Authority
- the Common Council of the City of London
- the Council of the Isles of Scilly

How will there be openness and transparency about my personal interests?

The national rules require your council or authority to adopt a code of conduct for its members and to have a register of members' interests.

The national rules require your council's code of conduct to comply with the Seven Principles of Public Life, and to set out how, in conformity with the rules, you will have to disclose and register your pecuniary and your other interests. Within these rules it is for your council to decide what its code of conduct says. An illustrative text for such a code is available on the Department's web site.³

Your council's or authority's monitoring officer (or in the case of a parish council the monitoring officer of the district or borough council) must establish and maintain your council's register of members' interests. Within the requirements of the national rules it is for your council or authority to determine what is to be entered in its register of members' interests.

What personal interests should be entered in my council's or authority's register of members' interests?

Disclosable pecuniary interests, and any other of your personal interests which your council or authority, in particular through its code of conduct, has determined should be registered.

Any other of your personal interests which you have asked the monitoring officer, who is responsible for your council's or authority's register of members' interests, to enter in the register.

As explained in the following section, your registration of personal interests should be guided by your duty to act in conformity with the seven principles of public life. You should ensure that you register all personal interests that conformity with the seven principles requires. These interests will necessarily include your membership of any Trade Union.

What must I do about registering my personal interests?

Under your council's code of conduct you must act in conformity with the Seven Principles of Public Life. One of these is the principle of integrity – that 'Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in

³ <https://www.gov.uk/government/publications/illustrative-text-for-local-code-of-conduct--2>

order to gain financial or other material benefits for themselves, their family, or their friends. **They must declare and resolve any interests and relationships.**⁴.

Your registration of personal interests should be guided by this duty and you should give the monitoring officer who is responsible for your council's or authority's register of members' interests any information he or she requests in order to keep that register up to date and any other information which you consider should be entered in the register.

All sitting councillors need to register their declarable interests – both declarable pecuniary interests, and other interests that must be declared and registered as required by your authority's code, or your duty to act in conformity with the Seven Principles of Public Life, such as your membership of any Trade Union. Any suggestion that you should tell the monitoring officer about your pecuniary interests only in the immediate aftermath of your being elected is wholly incompatible with this duty, with which you must comply.

If you have a disclosable pecuniary interest which is not recorded in the register and which relates to any business that is or will be considered at a meeting where you are present, you must disclose⁵ this to the meeting and tell the monitoring officer about it, if you have not already done so, so that it can be added to the register. You must tell the monitoring officer within 28 days of disclosing the interest. For this purpose a meeting includes any meeting of your council or authority, of its executive or any committee of the executive, and of any committee, sub-committee, joint committee or joint sub-committee of your authority.

If you have a disclosable pecuniary interest which is not shown in the register and relates to any business on which you are acting alone, you must, within 28 days of becoming aware of this, tell the monitoring officer about it, if you have not already done so, so that it can be added to the register. You must also stop dealing with the matter as soon as you become aware of having a disclosable pecuniary interest relating to the business.

When you are first elected, co-opted, or appointed a member to your council or authority, you must, within 28 days of becoming a member, tell the monitoring officer who is responsible for your council's or authority's register of members' interests about your disclosable pecuniary interests. If you are re-elected, re-co-opted, or reappointed a member, you need to tell the monitoring officer about only those disclosable pecuniary interests that are not already recorded in the register.

What are pecuniary interests?

A person's pecuniary interests are their business interests (for example their employment, trade, profession, contracts, or any company with which they are associated) and wider

⁴ <http://www.public-standards.gov.uk/about-us/what-we-do/the-seven-principles/>

⁵ If the interest is a sensitive interest you should disclose merely the fact that you have such a disclosable pecuniary interest, rather than the interest. A sensitive interest is one which the member and the monitoring officer, who is responsible for the register of members' interests, consider that disclosure of its details could lead to the member, or a person connected to the member, being subject to violence or intimidation.

financial interests they might have (for example trust funds, investments, and assets including land and property).

Do I have any disclosable pecuniary interests?

You have a disclosable pecuniary interest if you, or your spouse or civil partner, have a pecuniary interest listed in the national rules (see annex). Interests or your spouse or civil partner, following the approach of the rules under the 1972 and 1989 Acts, are included to ensure that the public can have confidence that councillors are putting the public interest first and not benefiting the financial affairs of themselves or their spouse or civil partner from which the councillor would stand to gain. For this purpose your spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Does my spouse's or civil partner's name need to appear on the register of interests?

No. For the purposes of the register, an interest of your spouse or civil partner, which is listed in the national rules, is **your** disclosable pecuniary interest. Whilst the detailed format of the register of members' interests is for your council to decide, there is no requirement to differentiate your disclosable pecuniary interests between those which relate to you personally and those that relate to your spouse or civil partner.

Does my signature need to be published online? Won't this put me at risk of identity theft?

There is no legal requirement for the personal signatures of councillors to be published online.

Who can see the register of members' interests?

Except for parish councils, a council's or authority's register of members' interests must be available for inspection in the local area, and must be published on the council's or authority's website.

For parish councils, the monitoring officer who is responsible for the council's register of members' interests must arrange for the parish council's register of members' interests to be available for inspection in the district or borough, and must be published on the district or borough council's website.

Where the parish council has its own website, its register of members' interests must also be published on that website.

This is in line with the Government's policies of transparency and accountability, ensuring that the public have ready access to publicly available information.

Is there any scope for withholding information on the published register?

Copies of the register of members' interests which are available for inspection or published must not include details of a member's sensitive interest, other than stating that the member has an interest the details of which are withheld. A sensitive interest is one which the member and the monitoring officer, who is responsible for the register of members' interests, consider that disclosure of its details could lead to the member, or a person connected to the member, being subject to violence or intimidation.

When is information about my interests removed from my council's register of members' interests?

If you cease to have an interest, that interest can be removed from the register. If you cease to be a member of the authority, all of your interests can be removed from the register.

What does having a disclosable pecuniary interest stop me doing?

If you are present at a meeting of your council or authority, of its executive or any committee of the executive, or of any committee, sub-committee, joint committee, or joint sub-committee of your authority, and you have a disclosable pecuniary interest relating to any business that is or will be considered at the meeting, you must not:

- participate in any discussion of the business at the meeting, or if you become aware of your disclosable pecuniary interest during the meeting participate further in any discussion of the business, or
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

In certain circumstances you can request a dispensation from these prohibitions.

Where these prohibitions apply, do I also have to leave the room?

Where your council's or authority's standing orders require this, you must leave the room. Even where there are no such standing orders, you must leave the room if you consider your continued presence is incompatible with your council's code of conduct or the Seven Principles of Public Life.

Do I need a dispensation to take part in the business of setting council tax or a precept?

Any payment of, or liability to pay, council tax does not create a disclosable pecuniary interest as defined in the national rules; hence being a council tax payer does not mean that you need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax support.

If you are a homeowner or tenant in the area of your council you will have registered, in accordance with the national rules, that beneficial interest in land. However, this disclosable pecuniary interest is not a disclosable pecuniary interest in the matter of setting the council tax or precept since decisions on the council tax or precept do not materially affect your interest in the land. For example, it does not materially affect the value of your home, your prospects of selling that home, or how you might use or enjoy that land.

Accordingly, you will not need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax support, which is in any event a decision affecting the generality of the public in the area of your council, rather than you as an individual.

When and how can I apply for a dispensation?

The rules allow your council or authority in certain circumstances to grant a dispensation to permit a member to take part in the business of the authority even if the member has a disclosable pecuniary interest relating to that business. These circumstances are where the council or authority considers that:

- without the dispensation so great a proportion of the council or authority would be prohibited from participating in that business as to impede the council's or authority's transaction of that business,
- without the dispensation the representation of different political groups dealing with that business would be so upset as to alter the likely outcome of any vote,
- the granting of the dispensation is in the interests of people living in the council's or authority's area,
- without the dispensation each member of the council's executive would be prohibited from participating in the business, or
- it is otherwise appropriate to grant a dispensation.

If you would like your council or authority to grant you a dispensation, you must make a written request to the officer responsible for handling such requests in the case of your council or authority.

What happens if I don't follow the rules on disclosable pecuniary interests?

It is a criminal offence if, without a reasonable excuse, you fail to tell the monitoring officer about your disclosable pecuniary interests, either for inclusion on the register if you are a newly elected, co-opted or appointed member, or to update the register if you are re-elected or re-appointed, or when you become aware of a disclosable pecuniary interest which is not recorded in the register but which relates to any matter;

- that will be or is being considered at a meeting where you are present, or
- on which you are acting alone.

It is also a criminal offence to knowingly or recklessly provide false or misleading information, or to participate in the business of your authority where that business involves a disclosable pecuniary interest. It is also a criminal offence to continue working on a matter which can be discharged by a single member and in which you have a disclosable pecuniary interest.

If you are found guilty of such a criminal offence, you can be fined up to £5,000 and disqualified from holding office as a councillor for up to five years.

Where can I look at the national rules on pecuniary interests?

The national rules about pecuniary interests are set out in Chapter 7 of the Localism Act 2011, which is available on the internet here:

<http://www.legislation.gov.uk/ukpga/2011/20/part/1/chapter/7/enacted>

and in the secondary legislation made under the Act, in particular The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 which can be found here:

<http://www.legislation.gov.uk/uksi/2012/1464/contents/made>

Annex A

Description of Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your **disclosable pecuniary interests** under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

- Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.
- Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992. The relevant period is the 12 months ending on the day when you tell the monitoring officer about your disclosable pecuniary interests following your election or re-election, or when you became aware you had a disclosable pecuniary interest relating to a matter on which you were acting alone.
- Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority –
 - under which goods or services are to be provided or works are to be executed; and
 - which has not been fully discharged.
- Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.
- Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.
- Any tenancy where (to your knowledge) –
 - the landlord is your council or authority; and
 - the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

- Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where –
 - (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
 - (b) either –
 - the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

This page is intentionally left blank